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UNIVERSITY OF HAWAI'I AT HILO

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OFFICE OF CONSERVATION  
AND COASTAL LANDS

2016 AUG -1 P 4:02

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

Contested Case Hearing Re Conservation  
District Use Application (CDUA) HA-3568 for  
the Thirty Meter Telescope at the Mauna Kea  
Science Reserve, Ka'ohē Mauka, Hāmākua,  
Hawai'i, TMK (3) 4-4-015:009

CASE NO. BLNR-CC-16-002

THE UNIVERSITY OF HAWAI'I AT  
HILO'S **OPPOSITION TO**  
**PETITIONERS** MAUNA KEA ANAINA  
HOU AND KEALOHA PISCIOTTA,  
CLARENCE KUKAUAKAHI CHING,  
FLORES-CASE OHANA, DEBORAH J.  
WARD, PAUL K. NEVER, AND KAHEA:  
THE HAWAIIAN ENVIRONMENTAL  
ALLIANCE'S **MOTION TO STRIKE**  
CONSERVATION DISTRICT USE  
APPLICATION, HA-3568, DATED  
SEPTEMBER 2, 2010, AND/OR  
**MOTION FOR SUMMARY**  
**JUDGMENT**, FILED JULY 18, 2016  
[DOC. 94]; DECLARATION OF  
COUNSEL; EXHIBITS "1" TO "9";  
CERTIFICATE OF SERVICE

**THE UNIVERSITY OF HAWAI'I AT HILO'S OPPOSITION TO PETITIONERS'**  
**MAUNA KEA ANAINA HOU AND KEALOHA PISCIOTTA, CLARENCE**  
**KUKAUAKAHI CHING, FLORES-CASE OHANA, DEBORAH J. WARD,**  
**PAUL K. NEVES, AND KAHEA: THE HAWAII ENVIRONMENTAL**  
**ALLIANCE'S MOTION TO STRIKE CONSERVATION DISTRICT USE**  
**APPLICATION, HA-3568, DATED SEPTEMBER 2, 2010, AND/OR MOTION**  
**FOR SUMMARY JUDGMENT, FILED JULY 18, 2016 [DOC. 94]**

4835-7177-4005.3

EXHIBIT 1

EXHIBIT 2

EXHIBIT 3

EXHIBIT 4

EXHIBIT 5

Applicant UNIVERSITY OF HAWAI‘I AT HILO (“UH-Hilo”), through its counsel, submits its response to Petitioners Mauna Kea Anaina Hou and Kealoha Pisciotta, Clarence Kukauakahi Ching, Flores-Case Ohana, Deborah J. Ward, Paul K. Neves, and KAHEA: The Hawaiian Environmental Alliance’s (collectively, the “**Petitioners**”) *Motion to Strike Conservation District Use Application, HA-3568, dated September 2, 2010, and/or Motion for Summary Judgment*, filed on July 18, 2016 [Doc. 94] (the “**Motion**”).

## **I. INTRODUCTION**

As Petitioners admit, either the landowner or a government entity having “management control” of the Mauna Kea Science Reserve have the authority to sign and submit the Conservative District Use Application (“**CDUA**”) to the Board of Land and Natural Resources (“**Board**”). Here, the State of Hawai‘i leased the State-owned Mauna Kea Science Reserve (“**MKSR**”) to the University of Hawai‘i (“**University**”). The Board of Regents of the University of Hawai‘i (“**Board of Regents**”) delegated the day-to-day management of the MKSR to the Office of Mauna Kea Management (“**OMKM**”). It is indisputable that the OMKM is a part of UH-Hilo and reports to the Chancellor of UH-Hilo. Thus, UH-Hilo has “management control” over the Mauna Kea Science Reserve for the purposes of the proposed land use and has the authority to sign and submit the CDUA. Furthermore, UH-Hilo sought and obtained the written consent of the Department of Land and Natural Resources (“**Department**”) as the landowner of the MSKR to the CDUA. Therefore, Petitioners’ allegation that the CDUA did not have the required signatures is without merit.

The University’s own policy expressly requires the President to delegate the maintenance and operation of each campus to the respective Chancellors of those campuses. The Board of Regents expressly delegated authority to UH-Hilo to implement the Comprehensive Management Plan for the Mauna Kea Science Reserve, including any activities with the Board.

The President also expressly authorized the UH-Hilo and its Chancellor to submit the CDUA to the Board on behalf of the University. Therefore, Donald Straney, the Chancellor of UH-Hilo, had the requisite authority to sign the CDUA, and the Petitioners' attempt to strike the application and dismiss UH-Hilo as a party on that basis fails.

Separately, Petitioners' attempt to re-argue the basis of TMT International Observatory, LLC's ("TIO") admission as a party is improper. The Hearing Officer has already ruled that TIO has standing to be a party in the contested case proceeding. Petitioners offer no new evidence that warrants reconsideration of the Hearing Officer's ruling. Therefore, the Hearing Officer should deny this part of the Motion as well.

Even if the Hearing Officer did consider the merits of Petitioners' request for reconsideration, Petitioners' argument is nonetheless unavailing. It is undisputed that UH-Hilo, on behalf of the University, is the applicant of record for the CDUA at issue, not TMT International Observatory Corp. TIO is the sublessee. Should the Board approve the CDUA, the resulting Conservation District Use Permit ("CDUP") would be issued to the University directly, and TIO, as the sublessee, would be required to comply with the terms of that permit. While TIO has a clear interest in whether the CDUA is approved, whether TIO or TMT International Observatory Corp. is named in the CDUA itself is irrelevant to the validity of the CDUA or resulting CDUP. Thus, the substitution of TIO for TMT International Observatory Corp. in the CDUA is a ministerial act that is well within the statutory authority of the Board. Petitioners do not argue otherwise; and their Motion lacks merit or a basis in law and should be denied.

## **II. ARGUMENT**

### **A. THE CHANCELLOR OF THE UH- HILO HAD AUTHORITY TO SIGN THE CDUA**

There is no reasonable dispute that Chancellor Donald Straney had the authority to sign

the CDUA on behalf of the University. The Motion states that Hawai‘i Administrative Rules (“HAR”) § 13-5-31(b) requires that applications for permits under the State Conservation District Rules (HAR Chapter 13-5) be signed by the “landowner.” However, in the case of state and public lands, “the State of Hawaii or government entity with management control over the parcel [*i.e.*, UH-Hilo] shall sign as landowner.” *See id.* Petitioners assert that because the University is the lessee of the MKSR, UH-Hilo could not have day-to-day management over that land, and thus, only the President of the University had authority to sign the CDUA. *See* Motion at 10. This argument fails as a matter of law.

As an initial matter, it is not clear if Petitioners are arguing that the Board should have signed the CDUA before the Board ruled on that application. *See* Motion at 9 (stating “[t]he application was not signed by the Chair of the Board, at the time, Laura Thielen.”). To the extent Petitioners allege that Laura Thielen, the Chair of the Department, should have signed the CDUA as the landowner, that assertion is unavailing because Ms. Thielen did, in fact, provide her signature for the CDUA. In his cover letter to the Office of Conservation and Coastal Lands (“OCCL”) submitting the CDUA, Chancellor Straney notified the OCCL that the Department would be providing its signature separately. Exhibit 1 (Letter from D.Straney to OCCL dated Sept. 2, 2010). On October 11, 2010, Ms. Thielen provided her signed consent to the CDUA to the OCCL.<sup>1</sup> Exhibit 2. Therefore, there is no dispute that the CDUA did contain the signature of the landowner pursuant to HAR § 13-5-31(b).

Second, even if the CDUA did not contain Ms. Thielen’s signature, the rules allow UH-Hilo, as the entity with “management control” over the MKSR for purposes of the proposed land use, to sign the CDUA. HAR § 13-5-31(b). The State of Hawai‘i—through the Department and

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<sup>1</sup> Ms. Thielen’s consent explicitly notes that her “decision to sign as landowner does not constitute [ ] endorsement approval of the proposed use.” Exhibit 2.

the Board—is the landowner of the MKSR. The Board leased the MKSR to the University and approved the University’s Mauna Kea Comprehensive Management Plan (“**CMP**”) setting forth the management and administration of the MKSR. Specifically, the CMP states that “the University of Hawai‘i Board of Regents . . . is the entity responsible for the implementation of the CMP, subject to the oversight of the BLNR.” Exhibit 3 at 1.<sup>2</sup> Implementation of the CMP includes submission of the CDUA. In her Notice of the Acceptance of the CDUA, Ms. Thielen noted that the MKSR “is leased by the University of Hawai‘i, with day-to-day management delegated by the Board of Regents to the [OMKM].” Exhibit 4 at 1. As discussed below, the OMKM is part of UH-Hilo. *See infra* at 5. Therefore, UH-Hilo Chancellor Straney had the authority to sign the CDUA on behalf of the University.

Petitioners’ argument that the CDUA should be stricken because UH-Hilo cannot act on behalf of the University is based upon the mistaken premise that the different branches of the school campuses that make up the University are separate and individual entities. This is fundamentally untrue. The University is a “large and complex organization” consisting of multiple campuses, including UH-Hilo. Exhibit 5, Regents Policy (“**RP**”) 2.202(D); HAR § 20-13-1 (“The University of Hawaii is a multi-campus system of post-secondary education. . . .”); Haw. Rev. Stat. (“**HRS**”) § 304A-101 (“There shall be a University of Hawaii that shall consist of such colleges and departments as may from time to time be established.”). In other words, as a legal matter, the University itself is made up of branch campuses—including UH-Hilo—and is recognized as a single entity. HRS § 304A-101.

Second, Petitioners’ assertion that only the University had “management control” as

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<sup>2</sup> However, the Board stated that it was not delegating “any authority (not already in existence) to the University with respect to land use approvals, leasing or public access to Mauna Kea.” Exhibit 3 at 2. The Board retains supervisory and ultimate control over the MSKR and over any decisions that might have an impact on native Hawaiian traditional and customary practices.

required by HAR § 13-5-31 assumes that the University cannot delegate day-to-day management to the specific campuses. Petitioners cite no authority to support that assumption. Moreover, Petitioner's argument would create an impractical management regime in which the Board of Regents and the President of the University would need to make every operational or administrative decision for all campuses, rather than leave those decisions to the individual campuses located in or near the communities most affected by those decisions.

The Petitioners' argument contradicts the University's own policies. The University of Hawai'i Regents Policy requires the President to "[d]elegate the administration and operation of each campus to the respective chancellors." Exhibit 5, RP 2.202(D). In the present case, the Board of Regents established OMKM "*as part of the organizational structure of UH-Hilo*" that reports directly to the Chancellor of the UH-Hilo campus. Exhibit 6, June 16, 2000 Board of Regents Meeting Minutes at 3 (emphasis added). The role of OMKM is to "manage the comprehensive plan for the Mauna Kea Science Reserve," including the processing of "[a]ny permit and rental arrangements," and "coordinating... with the Department of Land and Natural Resources." *Id.* Because OMKM was created within the "administration and operation" of the UH-Hilo campus, the Chancellor of UH-Hilo has oversight over OMKM's management of the MKSR. Petitioners have not argued that the President lacked the authority to delegate his signature authority to UH-Hilo, nor could they. Therefore, there is no question that the University gave UH-Hilo "management control" over the Mauna Kea Science Reserve as contemplated by HAR § 13-5-31(b); and thus, UH-Hilo had the requisite signature authority for purposes of the CDUA submitted under that rule.

Additionally, in 2009, the Board of Regents and the University President reaffirmed that "the Office of Mauna Kea Management, *housed within UH Hilo*, is [] the single entity to

manage a comprehensive integrated plan for the Mauna Kea Science Reserve.” Exhibit 7, Apr. 16, 2009 Board of Regents Meeting Minutes at 10 (emphasis added). At that meeting, the Board of Regents unanimously adopted a resolution to delegate to UH- Hilo, the day-to-day management and implementation of the CMP:

***The Board of Regents authorizes and directs through the normal University governance channels the University of Hawai‘i at Hilo, the Office of Mauna Kea Management, and the Mauna Kea Management Board to undertake implementation of the Comprehensive Management Plan including all conditions imposed by the Board of Land and Natural Resources and including any necessary ancillary activities and uses thereto.***

*Id.* at 12 (emphasis added). Submitting a signed CDUA clearly is a condition imposed by the Board to obtain the necessary permit for the Thirty-Meter Telescope project (“**Project**”). Therefore, the Regent’s resolution effectively mandates that UH-Hilo submit the CDUA on the University’s behalf.

On June 28, 2010, the University, through its Board of Regents, received testimony regarding and discussed the Project at the Board of Regents meeting. Exhibit 8, June 28, 2010 Board of Regents Meeting Minutes at 1-2, 4-9. At the meeting, the University’s then President, M.R.C. Greenwood, provided a report highlighting some of the capabilities of the Project and what it would mean for the field of astronomy, the State, and the world. *Id.* at 3. The University, through its Board of Regents, unanimously approved the Project at the June 28, 2010 meeting. *Id.* at 10. Thereafter, President Greenwood approved the Mauna Kea Management Board’s recommendation that “the UH Hilo Chancellor approve the CDUA for the TMT project and that ***UH Hilo be designated the agency to submit the CDUA*** to the Department of Land and Natural Resources (DLNR).” Exhibit 9, Sept. 1, 2010 Letter from D.Straney to M.R.C. Greenwood. Based on the approval of the TMT Project by the University, Chancellor Straney of UH-Hilo—pursuant to the authority expressly delegated to him by both the President and the Board of

Regents—signed and submitted the CDUA to the Board on September 2, 2010.

Because Petitioners' arguments seeking to strike the CDUA based on Chancellor's Straney's signature are flawed as a matter of law, Petitioners' request to dismiss UH-Hilo should be denied. Moreover, in Minute Order No. 13 [Doc. 115], the Hearing Officer expressly determined that UH-Hilo has standing as a party. To the extent the Motion seeks reconsideration of the admission of UH-Hilo as a party to the Contested Case Proceeding, the Motion fails to provide any new information not previously available and warranting reconsideration, or that a substantial injustice would occur absent reconsideration. Therefore, the Hearing Officer should reject Petitioners' attempt to dismiss UH-Hilo as a party to this Contested Case Proceeding.

B. TIO'S INCLUSION AS A PARTY DOES NOT VOID THE CDUA

Petitioners' Motion also argues that the CDUA should be voided because it references the TMT Observatory Corporation, rather than TIO. That assertion is unavailing because the mere reference of TIO's predecessor in interest, TMT Observatory Corp., does not invalidate the CDUA. Petitioners acknowledge that *UH-Hilo*, not TIO, is the CDUA applicant. Petitioners do not allege in their Motion that TIO should be the applicant instead of the University; and, as discussed above, UH-Hilo, acting on behalf of the University, is the proper applicant for the CDUA. Should UH-Hilo sublease the Mauna Kea Science Reserve—whether it be to TIO, TMT Observatory Corp., or otherwise—both UH-Hilo and the sublessee must comply with all the terms of any permit issued to UH-Hilo under the CDUA. Thus, while TIO, as the existing (or otherwise anticipated) sublessee, clearly has an interest in whether and under what conditions the CDUA is approved, the fact that TIO and TMT Observatory Corp. are separate legal entities for purposes of the proposed sublease does not affect the validity of the University's CDUA.

Furthermore, TMT Observatory Corp. was the development entity for the TMT project at the time the CDUA was prepared. TIO was established in May 2014 to construct and operate the



TMT Project. Therefore, TIO is the successor entity in interest to TMT Observatory Corp. and would simply be substituted for TMT Observatory Corp. in the CDUA and any permit resulting therefrom. This is a ministerial and clerical addition or modification that does not impact the proposed land use that is the subject of the application in any way. Indeed, aside from the nominal name change, Petitioners fail to articulate any relevance to the substantive issues in the contested case—*i.e.*, compliance with conservation district use restrictions, including the impact on Native Hawaiian rights. Petitioners’ Motion fails to cite any supporting Hawai‘i authority that such a ministerial entity name change requires cancellation or rescission of the entire permitting process. The Board has broad powers to establish the terms of the permit unless prohibited by law. *See* HRS § 171-6(6). Petitioners cannot identify any law or regulation that would prevent the Board from exercising its statutory authority to substitute TIO as the named sublessee entity for the TMT Observatory Corp. in the CDUA. The Motion should be denied.

Lastly, to the extent the Motion attempts to re-argue TIO’s inclusion in these proceedings as a party, the Motion should be denied. The Hearing Officer has already rejected Petitioners’ objections to admitting TIO as a party, and Petitioners’ present attempt to seek reconsideration offers nothing new. *See* Minute Order No. 13; *Cho v. State*, 115 Hawai‘i 373, 384, 168 P.3d 17, 28 (2007) (“Reconsideration is not a device to relitigate old matters. . . .”). As discussed in UH-Hilo’s Response to the Requests to Intervene as a Party Pursuant to Minute Order No. 7 [Doc. 71], TIO clearly has sufficient interest in these proceedings to warrant inclusion under both HAR § 13-1-31(b) and (c). Based on TIO’s clear property interest in the land use for which the CDUA

was submitted (*i.e.*, construction and operation of the Project), TIO was properly admitted as a party to the Contested Case Proceeding.<sup>3</sup> See Minute Order No. 13.

### III. CONCLUSION

For these reasons and any further argument at the hearing, the Motion should be denied.

DATED: Honolulu, Hawai'i, August 1, 2016.



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IAN L. SANDISON  
TIM LUI-KWAN  
JOHN P. MANAUT

Attorneys for Applicant  
UNIVERSITY OF HAWAI'I AT HILO

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<sup>3</sup> Even if, for the sake of argument, the Board's Consent to the Sublease between the University and TIO and/or the Sublease itself are somehow deemed invalid due to the invalidation of the previously issued CDUP—which they should not be—TIO, as the “anticipated” sublessee and the party who will be responsible for the development and operation of the project contemplated under the CDUA still has sufficient interest and value to this proceeding to warrant admission as a party. Petitioner's argument to the contrary has no merit.

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

Contested Case Hearing Re Conservation  
District Use Application (CDUA) HA-3568 for  
the Thirty Meter Telescope at the Mauna Kea  
Science Reserve, Ka'ohē Mauka, Hāmākua,  
Hawai'i, TMK (3) 4-4-015:009

CASE NO. BLNR-CC-16-002

DECLARATION OF COUNSEL;  
EXHIBITS "1" TO "9"

**DECLARATION OF COUNSEL**

I, IAN L. SANDISON, declare:

1. I am a partner at the law firm of Carlsmith Ball LLP, counsel for Applicant UNIVERSITY OF HAWAI'I AT HILO, in the above-caption matter.
2. I am authorized and competent to testify to the matters set forth herein, and unless otherwise indicated, I make this declaration based upon my personal knowledge.
3. Attached hereto as **Exhibit 1** is a true and correct copy of the September 2, 2010 letter from Donald Straney, Chancellor, University of Hawai'i at Hilo to Sam Lemmo, Administrator, Office of Conservation and Coastal Lands ("OCCL"), Department of Land and Natural Resources, provided by the University.
4. Attached hereto as **Exhibit 2** is a true and correct copy of the Approval of the Department as Landowner for the Processing of Conservation District Use Application (CDUA) HA-3568 for use of State-owned lands for the proposed Thirty Meter Telescope (TMT) Project at the Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua District, Hawai'i, TMK (3) 4-4-015:009, initialed by Chair Laura Thielen, Board of Land and Natural Resources, on October 11, 2010, provided by OCCL.

5. Attached hereto as **Exhibit 3** is a true and correct copy of the April 15, 2009 letter from Sam Lemmo, Administrator, OCCL to Mr. David McClain, President, University of Hawai'i approving the Mauna Kea Comprehensive Management Plan, provided by the University.

6. Attached hereto as **Exhibit 4** is a true and correct copy of the October 14, 2010 Notice of Acceptance of & Environmental Determination Conservation District Use Application HA-3568 (Board Permit) from Laura Thielen, Chair, Board of Land and Natural Resources, to Donald Straney, Chancellor, University of Hawai'i at Hilo, provided by the University.

7. Attached hereto as **Exhibit 5** is a true and correct copy of the University of Hawai'i Board of Regents Policy 2.202(D), available at <http://www.hawaii.edu/policy/?action=viewPolicy&policySection=rp&policyChapter=2&policyNumber=202&menuView=closed>, accessed on July 29, 2016.

8. Attached hereto as **Exhibit 6** is a true and correct copy of the Minutes of the June 16, 2000 University of Hawai'i Board of Regents Meeting, available at <https://www.hawaii.edu/offices/bor/regular/minute/20000616.regular.html>, accessed on July 29, 2016.

9. Attached hereto as **Exhibit 7** is a true and correct copy of the Minutes of the April 16, 2009 University of Hawai'i Board of Regents Meeting, available at <http://www.hawaii.edu/offices/bor/regular/minute/20090416.regular.pdf>, accessed on July 29, 2016.

10. Attached hereto as **Exhibit 8** is a true and correct copy of the Minutes of the June 28, 2010 University of Hawai'i Board of Regents Meeting, available at <http://www.hawaii.edu/offices/bor/regular/minute/20100628.special.pdf>, accessed on July 29,

2016.

11. Attached hereto as **Exhibit 9** is a true and correct copy of the September 1, 2010 letter from Donald Straney, Donald Straney, Chancellor, University of Hawai'i at Hilo to M.R.C. Greenwood, President, University of Hawai'i, provided by the University.

This declaration is made upon personal knowledge and is filed pursuant to Rule 7(b) of the Rules of the Circuit Courts of the State of Hawai'i. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 1st day of August, 2016.

  
\_\_\_\_\_  
IAN L. SANDISON

## EXHIBIT 1

# UNIVERSITY OF HAWAII AT HILO

UH Hilo Administration  
Office of the Chancellor

RECEIVED  
OFFICE OF CONSERVATION  
AND COASTAL LANDS

2010 SEP -2 P 2: 22

September 2, 2010  
DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

Mr. Sam Lemmo, Administrator  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
1151 Punchbowl Street, Room 131  
Honolulu, Hawai'i 96813

**Subject: Conservation District Use Permit Application: Thirty Meter Telescope Project**  
**Tax Map Keys: 3/4-4-015:009 (portion), Mauna Kea Science Reserve, Island, County and State of Hawai'i**

Dear Mr. Lemmo:

On behalf of the TMT Observatory Corporation, the University of Hawai'i is pleased to submit the enclosed Conservation District Use Permit application for the proposed Thirty Meter Telescope Project (TMT project) within the Mauna Kea Science Reserve. Exhibit B in the application includes the required management plan as described in the Hawai'i Administrative Rules Title 13 Chapter 5-39(a), for which we are requesting separate approval. We believe that the TMT project and its management plan are completely consistent with the Mauna Kea Comprehensive Management Plan and its related sub-plans.

The TMT Observatory Corporation is a private non-profit corporation that will be responsible for constructing the TMT project and for managing its operations. The TMT project is currently a partnership among the TMT Observatory Corporation (TMT), the University of California (UC), the California Institute of Technology (Caltech) and the Association of Canadian Universities for Research in Astronomy (ACURA). The National Astronomical Observatory of Japan (NAOJ) is a collaborator and potential partner, and the National Astronomical Observatories of the Chinese Academy of Sciences (NAOC) and India's Department of Science and Technology (DST) are observers and potential partners in the TMT project.

If approved, the permit would allow the construction, operation, and eventual decommissioning of the Thirty Meter Telescope (TMT) Observatory and related facilities within an area below the summit of Mauna Kea that is known as "Area E". The proposed Observatory consists of the 30-meter telescope itself, the instruments that are attached to it to record data, the enclosing dome, the attached building containing support and maintenance facilities, and parking. The Observatory is proposed for approximately 5 acres of land in what is generally referred to as the 13-North (13N) site within the Astronomy Precinct of the MKSR.

In addition to the Observatory itself, the application covers the proposed TMT Access Way. The Access Way consists of an improved road and underground utilities (power and telecommunications) connecting the TMT Observatory with existing roads and utilities. It also provides for the use and partial restoration of the existing Batch Plant Staging Area during construction of the TMT Observatory and Access Way. Approximately 4 acres in size, the Batch Plant Staging Area is located at the top of the Mauna Kea Access Road, and its use as a construction staging area has been authorized in several previous CDUPs.

Finally, the University also proposes repairs and upgrades to the existing electrical transformers and related equipment within the Hawaii Electric and Light Company (HELCO) substation near Hale Pōhaku

and to the underground electrical wires from that substation to the start of the Access Way. Operation and maintenance of all of the existing utility lines are allowed under CDUP HA-1573.

In recognition of the complexity of the project and the unique conditions encountered when undertaking high-altitude construction, TMT requests that the period allowed for the start of construction after granting of the CDUP be at least two (2) years and that the total time allowed for completion of the project be at least ten (10) years after granting of the CDUP. We recognize that this is slightly longer than the target schedule included in the application, but we believe it is prudent given the circumstances.

In addition to the completed application form, we are enclosing both a paper and electronic copy of the Final Environmental Impact Statement (FEIS) for the project. The FEIS was accepted by the Governor on May 19, 2010, and the period during which lawsuits contesting the acceptance ended on August 7, 2010. We understand that twenty (20) additional copies of the completed CDUA and of the Chapter 343 documentation will be required at the time that you determine the application complete, and we will provide the copies in the format (paper and/or electronic) you request.

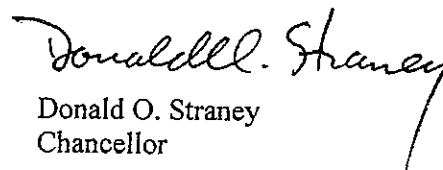
With respect to other submission requirements noted in your application instructions, the proposed action is situated many miles from the boundary of Hawai'i County's Special Management Area and does not involve work in or near the Special Management Area. Consequently, it will not require a Special Management Area Permit from the County of Hawai'i.

In accordance with your staff's instructions, we have attached a check for \$350 made payable to the State of Hawai'i to cover the \$100 application and the \$250 public hearing fee.

This submittal requires the signature of the landowner for its completion, and it is our understanding that the Department of Land and Natural Resources will arrange for that as part of its review of this submittal. We greatly appreciate the cooperation and help you have provided to us as we have prepared this application and look forward to continuing to work with you.

Please feel free to call me at (808) 974-7444 if you have any questions or require additional information regarding this submittal.

Sincerely,

  
Donald O. Straney  
Chancellor

Attachments



**Carlsmith Ball LLP**  
**P.O. Box 656**  
**Honolulu, Hawaii 96809-0656**  
**Ph. (808) 523-2500**

**Bank of Hawaii**  
 MAIN BRANCH  
 HONOLULU, HAWAII

59-102  
 1213

CHECK NO. 88421

DATE

09/01/10

\*\*\*Three hundred fifty and 00/100 DOLLARS\*\*\*\*\*

AMOUNT

\*\*\*\$350.00

VOID AFTER 90 DAYS

RECEIVED  
 DEPT. OF CONSERVATION  
 STATE LANDS

DEPT. OF LAND &  
 NATURAL RESOURCES  
 STATE OF HAWAII

PAY  
 TO THE  
 ORDER  
 OF:

State of Hawaii

SEP -2 P 2: 22  
*Sharon F. [Signature]*

⑈00088421⑈ ⑆121301028⑆ 0001006533⑈

Payee: State of Hawaii  
 Vendor ID: 2818

Check #: 88421  
 Check Date: Sep 01, 2010

<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Customer ID Number</u>		<u>Amount</u>
9/1/2010	100901GKS		Submittal Fee for Conservation District Application -- UH-CDUA (053538-00009)	\$350.00
				\$350.00

## EXHIBIT 2

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
PAUL J. CONRY  
ACTING FIRST DEPUTY  
LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAOLOA WE INLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Ref: OCCL:MC

FILE NO. CDUA HA-3568

MEMORANDUM

TO: The Honorable Laura H. Thielen, Chair  
Board of Land and Natural Resources

FROM: Sam Lemmo, Administrator  
Office of Conservation and Coastal Lands

SUBJECT: Approval of the Department as Landowner for the Processing of Conservation District Use Application (CDUA) HA-3568 for use of State-owned lands for the proposed Thirty Meter Telescope (TMT) Project at the Mauna Kea Science Reserve, Ka'ohē Mauka, Hāmākua District, Hawai'i, TMK (3) 4-4-015:009.

Attached for your consideration is Conservation District Use Application (CDUA) HA-3568 filed by the University of Hawai'i at Hilo for a Thirty-Meter Telescope (TMT) at the Mauna Kea Science Reserve. The Reserve is on State-owned land which is leased by the University.

OCCL has consulted with Land Division, Engineering Division, the Historic Preservation Division, the Division of Conservation and Resource Enforcement, and the Division of Forestry and Wildlife (DOFAW). The Divisions offered no objections to processing the application.

My staff recommends that the Department process the application.

As landowner, your signature is required to accept the CDUA for processing. Your decision to sign as landowner does not constitute your endorsement or approval of the proposed use.

STAFF RECOMMENDATION:

That the application be signed and processed.

CHAIRPERSON'S PREFERENCE: Please initial and date

1. Accept for processing:

LS  
Initial

12 Jul 10  
Date

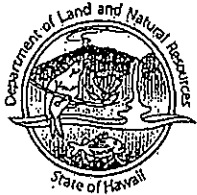
2. Reject for processing:

\_\_\_\_\_  
Initial

\_\_\_\_\_  
Date

## EXHIBIT 3

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI  
VICE CHAIRPERSON

KEN C. KAWAHARA  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

APR 15 2009

Mr. David McClain, President  
University of Hawaii  
2444 Dole Street, Bachman Hall  
Honolulu, Hawaii 96822

Dear President McClain:

Subject: Mauna Kea Comprehensive Management Plan

This is to inform you that on April 9, 2009, the Board of Land and Natural Resources (BLNR) approved the University of Hawaii's Mauna Kea Comprehensive Management Plan (CMP), subject to the following conditions:

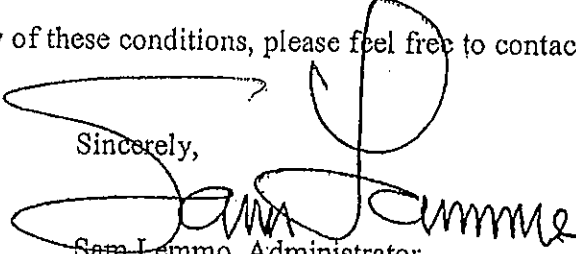
- 1) That the University of Hawaii Board of Regents (BOR) is the entity responsible for the implementation of the CMP, subject to the oversight of the BLNR. The BOR may delegate its responsibility with the accompanying authorities to another entity within the University system, subject to the approval of the BLNR;
- 2) That within one year of the BLNR approval of the CMP, the BOR or its authorized designee shall provide the BLNR in writing and in person with the following information:
  - Status of the development of each sub plan;
  - Status of the development of each management action;
- 3) That the BOR or its authorized designee shall continue to submit annual reports to the BLNR (in writing and in person), which shall include the items listed in condition No. 2;
- 4) That within one year of the BLNR approval of the CMP, or the submission of a Conservation District Use Application, whichever occurs sooner, the University shall submit for review and approval the following sub plans:
  - A cultural resources management plan;
  - A natural resources management plan;
  - A decommissioning plan, including a financial plan; and
  - A public access plan;
- 5) That amendments to the CMP shall be reviewed and approved first by the BOR, and second by the BLNR;

- 6) That the BOR recognizes that by approving the CMP, the BLNR has not delegated any authority (not already in existence) to the University with respect to land use approvals, leasing, or public access at Mauna Kea;
- 7) That within one year of the BLNR approval the CMP, or the submission of a Conservation District Use Application, whichever occurs sooner, the BOR or its authorized designee shall provide the BLNR (for review and approval) with a management and implementation framework, that has been authorized by the BOR, for project developments within UH Management Areas that is consistent with the specific management actions, conditions and policies of the CMP;
- 8) That failure to comply with these conditions may subject the University to the imposition of additional conditions to ensure compliance with the CMP and any penalties allowed under the law.

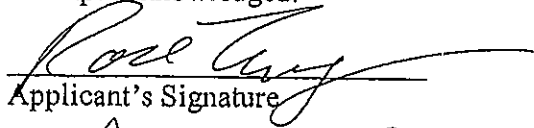
Please have the BOR's authorized designee acknowledge receipt of this approval with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days.

Should you have any questions on any of these conditions, please feel free to contact me at 587-0377.

Sincerely,

  
Sam Lemmo, Administrator  
Office of Conservation and Coastal Lands

Receipt acknowledged:

  
Applicant's Signature

Date

June 2, 2009

c: Chairperson, Board Members  
Hawaii District Land Agent  
Historic Preservation Division  
NARS  
Kuiwalu  
OMKM

## EXHIBIT 4

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA E. THIELER  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
RUSSELL Y. TSUTSI  
ACTING FIRST DEPUTY  
LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER  
AQUATIC RESOURCES  
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CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAROLAEWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF:OCCL:MC  
CDUA: HA-3568

Acceptance Date: October 7, 2010  
180 Day Expiration Date: April 5, 2011

Dr. Donald Straney, Chancellor  
University of Hawai'i at Hilo  
200 West Kāwili Street  
Hilo, HI 96720

OCT 14 2010

Dear Dr. Straney,

NOTICE OF ACCEPTANCE & ENVIRONMENTAL DETERMINATION  
Conservation District Use Application HA-3568  
(Board Permit)

This acknowledges the receipt and acceptance for the processing of Conservation District Use Application (CDUA) HA-3568 for the proposed Thirty Meter Telescope (TMT) Project at the Mauna Kea Science Reserve, Ka'ōhe Mauka, Hāmākua District, Hawai'i, TMK (3) 4-4-015:009. The project area is in the Resource Subzone of the State Land Use Conservation District.

The University of Hawai'i (UH) is seeking a Conservation District Use Permit (CDUP) on behalf of the non-profit TMT Observatory Corporation<sup>1</sup>. The Corporation was founded in 2003 by the California Institute of Technology, the University of California, and the Association of Canadian Universities for Research in Astronomy. The National Astronomical Observatory of Japan (NAOJ) joined as a Collaborating Institution in 2008; the National Astronomical Observatories of the Chinese Academy of Sciences joined as an Observer in 2009; and India joined as an Observer in June 2010. Observer status is the first step in becoming a full partner in TMT.

The observatory is proposed for approximately 5 acres of land at the 13-North (13N) site in an area below the summit of Mauna Kea known as "Area E." The site is in the Mauna Kea Science Reserve. The Reserve encompasses most land within a 2.5 mile radius of the site of the UH 2.2-m telescope – in effect, all land above 3700 meters in elevation with the exception of a pie-shaped wedge set aside as the Mauna Kea Ice Age Natural Reserve.

The State-owned Science Reserve is leased by the University of Hawai'i, with day-to-day management delegated by the Board of Regents to the Office of Mauna Kea Management (OMKM).

There are currently thirteen working telescopes near the summit. Nine are for optical and infrared astronomy, three for submillimeter wavelength astronomy, and one for radio astronomy. These include the world's second largest optical telescope (the twin telescopes of the W. M. Keck Observatory), largest dedicated infrared telescope (UKIRT, the 3.8-meter United Kingdom Infrared Telescope), and largest submillimeter telescope (JCMT, the 15-meter James Clerk Maxwell Telescope).

<sup>1</sup> More information on the TMT Corporation can be found at [www.tmt.org](http://www.tmt.org)



Elements of the TMT proposal include:

- **The 30-Meter Telescope (TMT).**
  - The core of the project is a 30-meter in diameter aperture telescope composed of 492 individual mirror segments, secondary and tertiary mirrors directing the gathered light, and a network of interchangeable sensors and instruments that will collect and process the light.
  - The observatory will also integrate an 'adaptive optics' (AO) system composed of eight laser beams that will be beamed into the atmosphere to create an *asterism*, or group, of guide stars.
- **The TMT Access Way.** The 3400-foot long Access Way will consist of an improved road and underground utilities connecting the Observatory with existing roads and utilities. For the most part the Access Way will follow an existing 4-wheel drive road and the wider roads that serve the SMA facility. Only 200 feet will not follow existing roads. The Access Way will be single lane where it crosses Pu'u Hau'oki, then two lanes for the remainder.
- **The Batch Plant Staging Area.** The Staging Area is a 4-acre site northwest of where the Mauna Kea Access Road forks near the summit. It will be partially restored, and used for storing bulk materials and a concrete Batch Plant. This is the same use the area was put to during prior construction activities on the mountain.
- **Hawaiian Electric and Light Company (HELCO) Upgrades.** The proposal calls for the repair and upgrades of electrical transformers and related equipment at the substation near Hale Pōhaku. The operation and maintenance of the existing utility lines was authorized under CDUP HA-1573. The substation is located approximately 2000 feet southwest of the main headquarters, and about 1000 feet from Mauna Kea Access Road. The new transformers will replace the existing ones on a 1:1 basis, and the fenced compound will not be expanded.

Due to the challenges encountered when undertaking high-altitude construction, the applicant is requesting that the period allowed for the start of construction if a CDUP is granted by two years, and that the total time allowed for construction be ten years.

The Mauna Kea Science Reserve Master Plan (2000) and the Mauna Kea Comprehensive Management Plan (2009) contain mitigative and management measures that address the overall impacts of the Science Reserve on the mountain's resources. This application also proposes the following project-level mitigation measures:

**Cultural Beliefs and Practices; Historic Resources:**

- TMT is proposed for the 13N Site, where it will not be visible from the culturally sensitive locations of the summit of Kūkahau'ula, Lake Waiau, or Pu'u Lilinoe.
- The Access Way was designed to limit impact on cultural resources by limiting it to one lane in places, following the same alignment as the existing 4WD road on the flank of Pu'u Kau'oki, and coloring the pavement to blend with the surroundings.
- Employees will attend mandatory cultural and natural resources training.
- The facilities will be furnished with items to provide a sense of place.
- Daytime activities will be minimized on up to four days per year, as identified by Kahu Kū Mauna<sup>2</sup>.

<sup>2</sup> Kahu Kū Mauna (Guardians of the Mountain) is a nine-member cultural advisory council named by the Mauna Kea Management Board (MKMB).

- Outreach staff will work with the Imiloa Astronomy Center and OMKM to develop information exhibits for visitors regarding the natural, cultural and archaeological resources of Mauna Kea.

#### Biological Resources:

- The Access Way has been designed to limit its effect on wēkiu bug habitat.
- An invasive species control program will be implemented.
- A ride-sharing program will be implemented to reduce traffic, dust, and noise.
- Arthropod monitoring will be performed prior to, during, and for two years following construction in the area of the Access Way on the alpine cinder cone habitat.
- The applicant will work with OMKM to develop and implement a habitat restoration study.

#### Visual and Aesthetic Resources:

- The preferred site location is north of and below the summit.
- The dome has been designed to fit tightly around the telescope.
- The coating of the dome will be a reflective aluminum-like coating which will reflect the sky during the day, reducing visibility.

#### Other Resources:

- Wastewater will be collected and transported down the mountain for treatment.
- Employment opportunities will be filled locally to the greatest extent possible.
- TMT will dedicate funds to workforce development programs, including curriculum and program development.
- Employees traveling beyond Hale Pōhaku will take part in a mandatory ride-sharing program using project vehicles.
- Energy savings devices will include solar hot water systems, photovoltaic power systems, energy efficient light fixtures, and the use of Energy Star rated appliances.
- The project will place HVAC (Heating, Ventilating, and Air Conditioning) units indoors to reduce noise. Façade acoustical louvers and duct silencers will be used to further reduce noise.

TMT also proposes to implement the following programs and plans in order to mitigate potential impacts:

- A Cultural and Archaeological Monitoring Plan.
- An Invasive Species and Control Program.
- A Construction Best Management Practices (BMP) Plan.
- A Cultural and Natural Resources Training Plan for employees.
- A Materials Storage / Waste Management Plan, including a Spill Prevention and Response Plan.
- A Waste Minimization Plan, which will include the use of water-efficient fixtures, and incorporate audits of potable water use.
- A Workforce Development Program headed by at least one full-time position through the Community Outreach office.

If a CDUP is issued the building and operation of the TMT Observatory will require a sublease from UH, which leases the ceded lands from DLNR. The sublease would be subject to approval by the UH Board of Regents and the TMT Board, followed by approval by BLNR. The current UH lease expires in 2033, and the TMT Observatory will be required to either decommission and restore the site at that time or obtain a new lease from BLNR.

After reviewing the application, OCCL finds that:

1. The project is an identified land use pursuant to HAR §13-5-22, Identified Land Uses in the Resource Subzone, R-3 ASTRONOMY FACILITIES, (D-1) *Astronomy facilities under an approved management plan*. This land use requires a permit from the Board of Land and Natural Resources (BLNR). The Board has the final authority to grant, modify, or deny any permit application.

The BLNR approved the Mauna Kea Comprehensive Management Plan on April 9, 2009. The BLNR required the University to submit four sub-plans: a Natural Resources Management Plan, a Cultural Resources Management Plan, a Public Access Plan, and a Decommissioning Plan. The BLNR approved the four sub-plans on March 25, 2010.

2. Pursuant to HAR §13-5-40 HEARINGS (a) *Public hearings shall be held* (4) *On all applications determined by the chairperson that the scope of proposed use, or the public interest requires a public hearing on the application.*

OCCL will contact you shortly to coordinate the public hearing.

3. Pursuant to HAR §13-5-31 (4) *Permit applications*, the permit requires an environmental impact statement (EIS).

The Final EIS and associated ancillary documents were prepared under the supervision of the University of Hawai'i at Hilo, and were published in the May 8, 2010 edition of the *Environmental Notice*.

OCCL will submit a notice of this project for publication in the October 23, 2010 *Environmental Notice*.

The CDUA will be placed on the agenda of the Board of Land and Natural Resources for their consideration after all reviews and evaluations of the proposal have been made.

Should you have any questions, please contact Michael Cain at the OCCL at 587-0048.

Sincerely,

  
LAURA H. THIELEN, Chair  
Board of Land and Natural Resources

cc: DLNR – Land Division, Historic Preservation, DOFAW, Engineering, State Parks  
DBEDT – Energy, Resources, & Technology Division; Planning Office  
Department of Education  
Office of Hawaiian Affairs  
University of Hawai'i - Institute for Astronomy, Hawaiian Studies, Environmental Center  
The Office of Mauna Kea Management, 640 N. Aohoku Place, Room 203, Hilo, Hawaii 96720  
Kahu Kū Mauna, OMKM, 640 N. Aohoku Place, Room 203, Hilo, Hawaii 96720  
US Fish and Wildlife Service  
County of Hawai'i Planning Department  
Hawaii State Public Libraries – State Library, Hilo, Kailua-Kona, Thelma Parker (Kamuela)  
Bishop Museum  
US Senator Daniel Akaka  
US Rep. Mazie Hirono  
State Senators Kokubun, Takamine, Green

## EXHIBIT 5



## **Viewing Policy RP 2.202**

### **Title**

Duties of the President

### **Header**

Regents Policy Chapter 2, Administration

Regents Policy RP 2.202, Duties of the President

Effective Date: Sept. 19, 2008

Prior Dates Amended: Jan. 13, 1966; Sept. 19, 1974; Oct. 20, 1978, Sept. 17, 1993; May 16, 1997; Oct. 18, 2002; Oct. 31, 2014 (recodified)

Review Date: August 2017

### **I. Purpose**

To set forth policy on the general duties of the president and authority delegated to the president.

### **II. Definitions**

No policy specific or unique definitions apply.

### **III. Board of Regents Policy**

A. The president shall be the chief executive officer of the university and shall exercise power under the board for governance, protection, and advancement of the university on both its educational and its business aspects, in its colleges and subdivisions, and in each of its affairs and interests. All the university faculties shall be under the direction of the president, who shall be an ex-officio member of such faculties.

B. The president shall be responsible for and perform the following duties:

1. Direct the development of strategic, long-range development and other plans and programs, and recommend policies designed to advance the instructional, research and service goals of the university, its campuses and its colleges.

2. Maintain effective working relationships between the university and the governor, state government and legislature, federal government, United States congress, other government officials, the general public, and among the students, faculty and administration of the various campuses.

3. Recommend plans and policies for the statewide vocational education programs in public institutions and for post-secondary education programs; and oversee the implementation of the plans and policies adopted to ensure a continuing high caliber of performance in academic, administrative and related activities.

4. Delegate the day-to-day statewide staff work and coordination of university and university-related functions to the vice presidents, chancellors, and other officers as he/she deems necessary.

5. Delegate the administration and operation of each campus to the respective chancellors.

6. Maintaining on-going communications with the board to include providing advance notice, to the extent practical, of potentially controversial decisions or actions that are within authority delegated to the president.

7. The board delegates to the president authority to prepare and submit to the legislature, on behalf of the board, reports and other requests for information regarding university operations and administration as may be requested by the legislature or as may be prescribed by law. In conjunction with submission of reports and information to the legislature, copies shall be provided to the board.

C. The board may also prescribe other duties and responsibilities as necessary.

D. The president's duty to abide by and apply the policies, rules and regulations adopted by the board is expressed in the following statement:

"The board, recognizing that the university is a large and complex organization; that many policies, rules and regulations have been adopted or promulgated over the years; that the administration and governance of the university involves many individuals and committees acting in official, administrative or advisory capacities; that questions arise from time to time concerning the interpretation or application of a given policy, rule or regulation; and that the board's policy is to exercise control over the university through its executive officer, the president of the university, includes the understanding that the president has the principal responsibility to apply the policies, rules and regulations adopted by the Board of Regents.

Questions that may arise within the university community concerning the proper application of a policy, rule or regulation are to be resolved by the president of the university, or his/her designee(s), if such resolution is required within the university community, and that all persons performing university functions in official, administrative and advisory capacities, individually or as members of committees, shall be guided by the opinion or ruling of the president or his/her designee(s) with respect to such questions, with the understanding that the interpretation of board policies rests exclusively with the board."

E. Authority delegated to the president may at the president's discretion be further delegated unless the board specifically limits the delegation of authority to the president.

## IV. Delegation of Authority

The board delegates to the president certain authority regarding responses to the Legislature. See RP 2.202 (B)(7). Authority delegated to the president may at the president's discretion be further delegated unless the board specifically limits the delegation of authority to the president. See RP 2.202(E).

## V. Contact Information

Office of the Board of Regents, 956-8213, [bor@hawaii.edu](mailto:bor@hawaii.edu)

## VI. References

A. <http://www.hawaii.edu/offices/bor/>

B. [http://www.capitol.hawaii.gov/hrscurrent/Vol02\\_Ch0046-0115/HRS0089C/HRS\\_0089C-0004.htm](http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0089C/HRS_0089C-0004.htm)

## VII. Exhibits and Appendices

No Exhibits and Appendices found

## Approved

Approved as to Form:

October 31, 2014

Cynthia Quinn

Date

Executive Administrator and Secretary of the Board of Regents

## Topics

No Topics found.

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## EXHIBIT 6





Home About Campuses Admissions Academics Research Technology Libraries Arts & Community

MINUTES OF REGULAR MEETING OF THE  
UNIVERSITY OF HAWAI'I BOARD OF REGENTS

June 16, 2000

I. CALL TO ORDER

The monthly meeting of the Board of Regents was called to order by Chairperson Donald C.W. Kim on Friday, June 16, 2000, at 8:25 a.m., in Campus Center, Rooms 306-307, University of Hawai'i at Hilo.

Attendance

Present were Regents Billy Bergin, Everett R. Dowling, Allan K. Ikawa, Sat Khalsa, Bert A. Kobayashi, Clyde T. Kodani, Ah Quon McElrath, Walter Nunokawa, Nainoa Thompson, Sharon R. Weiner; President and Chancellor Kenneth P. Mortimer (herein: President Mortimer); Secretary of the Board David Iha; and Administrative Officer Carl H. Makino. Regent Lily K. Yao was excused.

Also present were Dr. Dean O. Smith, Senior Vice President and Executive Vice Chancellor, University of Hawai'i at Manoa (herein: Senior Vice President Smith); Dr. Alan H. Teramura, Senior Vice President for Research and Dean of the Graduate Division (herein Senior Vice President Teramura); Dr. Joyce Tsunoda, Senior Vice President and Chancellor for Community Colleges (herein: Senior Vice President Tsunoda); Dr. Rose Tseng, Senior Vice President and Chancellor, UH-Hilo (herein: Senior Vice President Tseng); Mr. Walter S. Kirimitsu, Senior Vice President and General Counsel; Mr. Eugene S. Imai, Senior Vice President for Administration; Dr. Doris Ching, Vice President for Student Affairs; Dr. Colleen Sathre, Vice President for Planning and Policy; Dr. William A. Pearman, Chancellor, UH-West O'ahu; Ms. Joanne Clark, Executive Director for University and Community Relations; Dr. Karla A. Jones, State Director for Career and Technical Education; Ms. Sandra Sakaguchi, Provost, Hawai'i Community College; Mr. Harold Masumoto, Special Advisor to the President; Dr. Judith Inazu, Executive Assistant to the President; Mr. Patrick McFadden, President, UH Foundation; and others.

II. APPROVAL OF MINUTES

Upon motion by Regent Dowling and second by Regent McElrath, the Board unanimously approved the minutes of its meeting held on May 12, 2000.

III. ITEMS FROM PRESIDENT'S MEMORANDUM NO. 79

RECOMMENDATIONS FOR ACTION AND GENERAL INFORMATION

Approval of the Mauna Kea Science Reserve Master Plan

Senior Vice President Teramura said that responding to a Legislative resolution, the State Auditor issued a report in February 1998, criticizing both the University and the State Department of Land and Natural Resources for inadequate protection of the cultural and natural resources of the Mauna Kea Science Reserve. To address the Auditor's concerns and recommendations, the University inaugurated a planning and consultation process. The process included the formation of the Mauna Kea Advisory Committee comprised of key stakeholders who were to provide input from the various sectors of the community. In the interim, the University had provided the Board of Regents with periodic progress reports on this process. The Board, in turn, offered its guidance to the University through a special subcommittee that has consulted extensively with representatives from the Hawaiian community in a sincere attempt to resolve the many cultural and environmental issues related to the development of the Mauna Kea Science Reserve Master Plan.

The Master Plan provides for a carefully controlled upgrading with limited expansion of astronomy facilities over the next 20 years. The proposed Plan is adequate to maintain the primacy of Mauna Kea as the foremost observatory complex in the world. The goals of the Mauna Kea Master Plan are to update the 1983 Mauna Kea Science Reserve Complex Development Plan by:

1. Developing a vision for the sustainable use and enhancement of the Mauna Kea Science Reserve as a Hawaiian place with significant and unique cultural, natural, educational/research and recreational values, meanings and potentials, both locally and globally, and;
2. Integrating and balancing cultural, natural, educational/research and recreational values and uses in a physical and management plan which will remedy existing problems and provide a framework and structure for the responsible and sustainable stewardship of the Mauna Kea Science Reserve.

**EXHIBIT 6**

Implementation of these goals is predicated on the adoption of the proposed Master Plan. As such, the Master Plan is not the end of the process of management on the mountain, but rather the beginning. Upon approval explicit new avenues of community participation in management of the Science Reserve become available. Additionally, the process of articulation and implementation of community benefits, particularly educational benefits directed towards active participation by native Hawaiians in astronomical discoveries and the creation of new knowledge, will commence upon adoption of the Master Plan.

Acceptance by the Governor of the Final EIS denotes that the Master Plan fulfills the State requirements for disclosure and response to public comment pursuant to Chapter 343, H.R.S. Thus, acceptance of the document by the Board is the sole remaining prerequisite for implementation.

The current version of the Mauna Kea Science Reserve Master Plan is a result of comprehensive review and revision to incorporate extensive community input. It addresses the concerns expressed in the 1998 Legislative Auditor's report on the management of Mauna Kea and provides for a comprehensive management of cultural, natural and environmental resources of Mauna Kea whose managerial authority is vested in a new office of Mauna Kea Management located at UH-Hilo.

Community involvement, particularly from the Hawaiian community continues to be a central theme of the plan due to the sacredness of the mountain. In order to provide for meaningful input on the cultural resources of Mauna Kea, the plan calls for the establishment of a Mauna Kea Advisory Board, and a Kahu Kupuna Board along with standards for assessing the impact on the cultural resources of the mountain by future projects. The new management structure will provide continued guidance in the management of the mountain and in striving for a synergy for the Master Plan's four major themes of science, culture, environment, and education.

In response to the community's concerns relating to the planning and approval process of the Master Plan, the following paragraphs are recommended to be added to Page IX-43 in the section titled Planning Guide Summary and Approval Process for Astronomy Precinct:

A list of the existing and proposed future observatories for which there are identified siting areas in this master plan is shown on Table IX-1 (page IX-44). The likelihood of all of the identified facility upgrades and proposed new facilities being developed is extremely remote, and the expected scope of development is 50 to 75 percent of the observatories listed. The time for future development is undefined at present, except for the Keck Outriggers project. For some of the proposed new projects, significant technological advancements are needed before they could move forward. This is particularly true for the Next Generation Large Telescope.

As described in Chapter XI, the University of Hawai'i Board of Regents and the President retain project approval and design review authority over all developments within the Science Reserve. To assist the University in its evaluation of proposed new development, all applications will be reviewed by the Office of Mauna Kea Management, the Mauna Kea Board, and the Kahu Kupuna Council (see Figure XI-2, page XI-8). In making any decisions on project approval, the Board will carefully consider the advice received from the above three groups.

Each of the redeveloped or proposed new facilities, including any non-astronomy facilities, will undergo individual project reviews, which include an environmental analysis pursuant to Chapter 343 Hawai'i Revised Statutes and a comprehensive analysis of the potential cultural impact. The Kahu Kupuna Council will assist in establishing the criteria for these analyses. It is expected that some of the criteria will be specified by State requirements. In addition, each new facility will be required to present a detailed justification addressing, but not limited to, questions such as the following: (1) Why is the facility needed? (2) Why is Mauna Kea the best site for the facility? (3) What other location options are available? (4) What are the expected benefits: research and education, employment and economic activity, potential revenues? (5) What is the expected facility lifetime and term of the sublease agreement?

In reviewing the observatories identified in Table IX-1, the following revision is recommended: Delete: New Conventional Optical/IR No. 2 and Delete: New: Optical IR/Interferometer. The revised list reduces the proposed new observatories from five to three. In addition, to clarify the approval process for the new and redeveloped projects on Table IX-1, the following explanatory note is added to the table: "All new and redeveloped facilities require individual project review and approval. The NGLT require the development of new technology."

In response to a concern that the Master Plan address the need to maximize the use of the existing observatory sites by joint operating arrangements, the following paragraph is recommended to be added to the second paragraph on page IX-27:

"We expect to see a trend toward specialization for these conventional-size optical/infrared telescopes. For example, one facility may decide to concentrate on wide-field imaging, while another focuses on using adaptive optics to achieve the highest possible angular resolution over a small field. Specialization will allow the telescope facility to achieve the ultimate in performance within the chosen area of research, while at the same time simplifying the operation and thereby reducing costs. Specialization will provide strong incentive for joint operating arrangements and shared use among the observatory organizations."

To clarify that Chapter IX of the Master Plan is a planning guide, it is recommended that a) the title of the Chapter be changed from Physical Plan to "Physical Planning Guide," b) whenever the word "plan" is used that the words "planning guide" be substituted, c) the word "proposed" be added before the word "new."

To clarify Chapter VI - Education and Research, the following sentence is recommended be added to the third paragraph on page VI-10:

"So, in addition to programs to train Hawai'i's young people in science and technology of astronomy, there is a need for K-12 and remote learning programs statewide, together with learning centers at University of Hawai'i at Hilo, Hawai'i Community College and eventually UH West Hawai'i to provide balance between science and culture through education."

In response to the community's concern for meaningful input into the management of Mauna Kea, the following changes are recommended: Figure X-2, Page X-6, add Kahu Kupuna Council to the organization chart providing input through the Mauna Kea Management Board. Figure XI-2, Page XI-8, add Kahu Kupuna Council to the project approval and design review procedures process by providing input through the Mauna Kea Management Board. Figure XI-3, Page XI-16, add Kahu Kupuna Council to the General Master Plan Amendment Procedures for Science Reserve by providing input through the Mauna Kea Management Board.

Regent Weiner moved to adopt in principle the Mauna Kea Science Reserve Master Plan dated March 2000, as amended, with implementation details subject to University policies, procedures and applicable statutes and with the further stipulation that there be no new construction at the Reserve until the Office of Mauna Kea Management, the Mauna Kea Management Board and the Kahu Kupuna Council are established, as presented in President's Memorandum No. 79 (Agenda), Item A-1, dated June 16, 2000. Regent Dowling seconded the motion which was carried by majority vote. Regent Thompson abstained from voting.

#### Establishment of the Office of Mauna Kea Management at the University of Hawai'i at Hilo

Senior Vice President Tseng said that the Mauna Kea Science Reserve Master Plan calls for a single entity to manage the comprehensive plan for the Mauna Kea Science Reserve. This organization is to be based on the Big Island and would report to the Senior Vice President and Chancellor of the UH-Hilo campus, serving as a point of contact by the general public on matters dealing with Mauna Kea. Senior Vice President Tseng, therefore, recommended the establishment of the University of Hawai'i Office of Mauna Kea Management.

It is also proposed in the Master Plan that a Mauna Kea Advisory Board be established to guide the operations of the Office of Mauna Kea Management. The proposed Office of Mauna Kea Management would report directly to the Senior Vice President and Chancellor for University of Hawai'i at Hilo and would be initially staffed with six positions including a Director, Secretary and four Park Rangers. Additional staff for this office would be added in the future as funds became available.

Within the UH system the new Director would have overall management responsibility for the Office. The Director would be the key representative of the office and the daily point of contact for the general public and tenant organizations of the mountain and at the University Park. Any permit and rental arrangements that may be established would be processed through the Mauna Kea Management Office except for facilities managed by the Institute for Astronomy at Hale Pohaku. Support scheduling and requests for use of facilities or support services would be processed through the Director. The office would also address other requests, grievances and requests for information. Monitoring programs and data bases would be coordinated through the office to provide integrated management of the mountain.

Rangers located at Hale Pohaku would be trained as cultural and natural resource specialists. Their primary role would be education, coordination, monitoring and resource management. They would have a secondary enforcement role with possible assistance from the Department of Land and Natural Resources (DLNR), officers and the county of Hawai'i. It is envisioned that there would be a minimum of two rangers on the mountain at any time, one at Hale Pohaku and one roaming at the Science Reserve.

The major role of the Office of Mauna Kea Management would be its role in coordinating actions that are important to the management of the mountain, coordinating in the process with the Department of Land and Natural Resources (DLNR) since authority on the mountain is distributed among many governmental entities with DLNR retaining a major role in its management. While the University has the master lease for the science reserve, DLNR still holds title to the lands that make up the summit of Mauna Kea. In the master lease DLNR specifically reserves their authority over activities that are not related to the educational and research mission of the University of Hawai'i. Even in the Science Reserve DLNR is still the primary agency responsible for the protection of natural and cultural resources, managing recreational activities such as hunting and hiking as well as controlling commercial uses, responsibilities enunciated in statutes and cannot be delegated without legislative or constitutional action, one of which is DLNR's authority and responsibilities related to historic sites and cultural practices. These responsibilities remain with DLNR and are not delegated through the master lease.

In the event of medical emergencies and events such as fires, other agencies such as the County Fire and Police departments would play lead or major roles in responding to these emergencies. The Office of Mauna Kea Management would assist and coordinate during these situations.

Consultation with exclusive employee collective bargaining representatives was not conducted since only unassigned vacant positions will be used for the Office of Mauna Kea Management staff.

Regent Weiner moved to establish the Office of Mauna Kea Management as part of the organizational structure of UH-Hilo, as presented in President's Memorandum No. 79 (Agenda), Item A-2, dated June 16, 2000. Regent Kodani seconded the motion which was unanimously carried.

#### Reorganization to Establish the School of Communications through the Consolidation of the Departments of Journalism and Communication, College of Social Sciences, University of Hawai'i at Manoa

Senior Vice President Smith requested approval to reorganize the Departments of Journalism and Communication in the College of Social Sciences, University of Hawai'i at Manoa into one unit, establishing

the School of Communications. The proposal could be implemented immediately and will not entail the creation of any additional positions or funding, or any changes to existing degree programs and requirements.

The Department of Communication is an undergraduate/graduate unit, offering the B.A. and M.A. in Communication, and an interdisciplinary Ph.D. in Communication and Information Sciences, in collaboration with Information and Computer Sciences, Decision Sciences, and Library and Information Sciences. The Department of Communication has a faculty FTE of 11. While the Department of Journalism is an undergraduate only unit, offering the B.A. in Journalism with a faculty FTE of 6. There will be a single chair, appointed by the dean. The faculty will organize into core curricular areas such as: Journalism and Mass Communication; Communication and Culture; Telecommunication; and Global Communication. Faculty will be free to additionally affiliate with one or more of the curricular areas, encouraging cross-disciplinary teaching, research, and application.

The new unit will consolidate 17 FTE faculty positions into a single program to take advantage of shared and related scholarship, instruction, and service. It will continue to offer all existing degree programs: the B.A. in Communication, the B.A. in Journalism, the M.A. in Communication, and the Ph.D. in Communication and Information Sciences. The unit will be organized and administered as a department within the College of Social Sciences. The new unit will be headed by a chair, not a director. It will carry the designation of School in order to offer separate B.A. programs in Journalism and Communication and because of the need to maintain a separate, national accreditation for the Journalism degree program.

The proposed reorganization will better serve students and faculty through an expansion of program and course options; the utilization of faculty expertise across programs; the creation of interdisciplinary research initiatives; and an improved integration of media technology and content as well as of communication theory and its application in social and professional settings.

As a result of this proposed reorganization, better use of existing faculty positions will be possible through the integration of related academic programs. Faculty currently in the Department of Communication would be able to teach some courses now taught by Department of Journalism faculty and vice versa. The School will provide a new synergy among existing related programs, such as Organizational Communication and Public Relations; Media Production and Broadcast Journalism; and Multimedia Production and Print Journalism. It will economize on the overlaps in existing programs, such as in Communication/Media Law. It will also expand elective offerings for students, making courses such as Intercultural Communication and Media Ethics available to all. The integration of the International Journalism Program for Chinese journalists with the Global Communication Program will expand learning and research opportunities on both the undergraduate and graduate level.

Although administratively equivalent to a department, the School designation will allow the maintenance of a separate degree program and identifiable faculty assigned to the Journalism degree program, a condition set by the Accrediting Council for Education in Journalism and Mass Communication, which extended only provisional reaccreditation for the Journalism program during the reorganization and approval process.

The faculty losses in Journalism are particularly problematic in that many Journalism courses are writing intensive, and so are limited in size to 20. National accreditation standards also call for enrollment limits in writing/skills courses. The availability of terminals in computer labs where the classes are taught also imposes a class size limitation. It is not possible, therefore, to simply increase the size of classes to compensate for the reduction in faculty. Similarly, broadcast production and multi-media production courses in the Communication curriculum have necessary enrollment limits because of the availability of equipment and production lab time.

The reorganization would make more efficient use of the existing faculty through integrating related academic programs and would realize an initial \$11,460 savings to the College of Social Sciences through the consolidation of two department chairs. Additionally, the College will have approximately \$29,000 to reallocate internally through the transfer of the secretarial position from Communications to Economics.

Regent McElrath moved to approve in concept the proposed reorganization, consolidating the Departments of Journalism and Communication in the College of Social Sciences, University of Hawai'i at Manoa to establish the School of Communications with the understanding that implementation details will be subject to applicable policies, statutes and collective bargaining agreements, as presented in President's Memorandum No. 79 (Agenda), Item A-3, dated June 16, 2000. Regent Nunokawa seconded the motion which was unanimously carried.

#### **Establishment of the Barry and Virginia Weinman Chair of Entrepreneurship and E-Business in the College of Business Administration at the University of Hawai'i at Manoa**

Senior Vice President Smith recommended the establishment of the Barry and Virginia Weinman Chair of Entrepreneurship and E-Business in the College of Business Administration, University of Hawai'i at Manoa.

Barry and Virginia Weinman are residents of Honolulu, Hawai'i and California with business and professional interests in information and media technology. Mr. Weinman is General Partner of Associated Venture Investors (AVI) Management and Managing Director of the Media Technology Venture Funds. These two companies were created as strategic corporate partners for the purpose of investing in the new digital economy. Prior to becoming a venture capitalist, Mr. Weinman held management positions with AT&T, IBM, and Fairchild Semiconductor. Virginia Weinman is President and Founder of allusions.com, a California corporation

specializing in computerized multimedia business presentations and Internet World Wide Web site development. Mrs. Weinman has worked extensively in the computer science business, as CEO and Co-Founder of Interactive Applications Inc., and Partner and Co-Founder of Venture Equity Technology Corporation.

Barry and Virginia Weinman recognize the complex changes taking place in business which also need to be reflected in business education. They are committed to helping Hawai'i reinvent its economy for future business opportunities, most of which will involve some aspect of E-commerce.

The Barry and Virginia Weinman Distinguished Professor of Entrepreneurship and E-Business will play a critical role in developing a new Center for Entrepreneurship and E-Business within the College of Business Administration (CBA). This Center will position students and graduates of UH-Manoa to take advantage of the opportunities in the "New Economy" of the 21<sup>st</sup> century. The Chair will also serve as the focal point for infusing entrepreneurship and E-business into the College's curriculum and fostering research in these areas. The Weinman Chair also demonstrates how UH-Manoa is prepared to make excellent use of the additional resources recently provided by the Legislature and the Governor for CBA to develop programs in E-commerce and to prepare students to succeed in a rapidly changing business environment. This Chair will also support other initiatives involving the internet and business education throughout UH and will be a valuable resource for the State of Hawai'i. The chair holder of the Weinman Chair is expected to teach at the undergraduate and graduate levels, to supervise graduate students, to conduct research in the areas of entrepreneurship and E-commerce, and to provide public service on these topics for the State. We expect the chair holder to have a distinguished academic record and to build on this record at UH-Manoa.

Funding for the Barry and Virginia Weinman Distinguished Professor of Entrepreneurship and E-Business will be provided by the payout from the UH Foundation Endowment established by the Weinmans, and by the operating budget of CBA in the amount of \$50,000, representing a 5% payout from UHF Endowment of \$1,000,000; \$150,000 in general fund support from CBA. The payout from the UH Foundation will be used to support the activities of the chair holder, including research, student assistance, and travel to meetings and to give presentations. As needed, a portion of the payout may be used to support the salary of the chair holder. Given the high demand for business school faculty in the area of E-commerce and our stipulation that the chair holder be a distinguished scholar, we can expect the salary requirements to be approximately \$150,000. The total funding for the Weinman Chair will be approximately \$200,000.

Regent McElrath moved to establish the Barry and Virginia Weinman Chair of Entrepreneurship and E-Business in the College of Business Administration, University of Hawai'i at Manoa upon receipt of the endowment, with the understanding that the filling of the Chair would be in accordance with applicable personnel policies and procedures, as presented in President's Memorandum No. 79 (Agenda), Item A-4, dated June 16, 2000. Regent Nunokawa seconded the motion which was unanimously carried.

#### Termination of the Associate in Applied Science in Fire Science Program at Hawai'i Community College

Senior Vice President Tsunoda, on behalf of the Provost of Hawai'i Community College, recommended the termination of the Associate in Applied Science in Fire Science at Hawai'i Community College.

The Fire Science program at Hawai'i Community College began in 1971 as a satellite operation of Honolulu Community College. In 1974 Hawai'i Community College began an independent operation with lecturers. The primary objective of the program was to upgrade persons presently employed in fire protection service or related occupations and to train those interested in fire service careers. The College currently offers an Associate in Applied Science degree in this program.

Since its inception, the Fire Science program has operated with lecturers, which made it difficult to update or develop new courses as dictated by changes in the industry. Hawai'i Community College has relied on Honolulu Community College to provide the lead in surveying and developing the necessary courses for pre-service and in-service training for the industry. Since 1994, Hawai'i CC has referred students to Honolulu Community College for their Fire Science courses. Honolulu Community College currently has 25-30 students, primarily in-service from the Big Island, taking courses via distance education on an intermittent basis.

This program has a history of very low demand, enrollment and graduation rates at Hawai'i Community College. The primary reason for the low demand is that graduates of the Fire Science program do not receive any preferential treatment in hiring. The fire fighters preemployment written exam is general in nature and deals with basic communication and computational skills and not technical skills and knowledge. Hawai'i CC could support individuals preparing for the exam with math and communication courses. Another reason for low demand is the conflict between class schedules and the fire fighter's work schedule. Fire fighters that seek in-service training find it difficult to attend classes on a regular basis with a work schedule that may differ every week. Some have opted to take courses from Honolulu Community College via distance education. These courses are designed to be flexible and do not require set times and places.

Our data indicates that there are enough applicants interested in Fire Science to start a cohort, but an average of four students per year actually register for classes. With so few students, the College has not offered a Fire Science course other than cooperative education or directed study courses. The last time any student graduated with a Fire Science degree was in the Spring of 1993, and there are no students currently enrolled.

Regent Kodani moved to terminate the Associate in Applied Science in Fire Science Program at Hawai'i Community College, effective June 16, 2000, as presented in President's Memorandum No. 79 (Agenda), Item A-5, dated June 16, 2000. Regent Nunokawa seconded the motion which was unanimously carried.

#### New Graduate Assistant Stipend Schedule and New Special Lecturer Credit Hour Rate

Senior Vice President Teramura recommended the adoption of a new graduate assistant stipend schedule and a new special lecturer credit hour rate, effective July 1, 2000.

During the previous decade, the Board has approved graduate assistant stipend schedules to help bring the stipend scale more in line with those offered by competing universities. By 1997, the graduate assistant stipends were generally competitive with other research universities, especially before cost-of-living differences were taken into account. However, the stipend scale has not been adjusted since 1997.

The recommended stipend schedule reflects a 4% increase effective July 1, 2000. In effect, this increase will amount to a minimum maintenance adjustment. It will also make out stipends more comparable with other research universities. There are about 810 graduate assistants employed at any given time and typically slightly less than half are being supported on general funds. The cost of the proposed stipend increases for the general funded positions will be \$200,000, and will be funded through internal reallocations. This proposal has been reviewed and supported by the academic deans and directors.

The increase would apply to all current graduate assistants on general funds and to all new appointments. Graduate assistants currently being supported on extramural funds could be moved to the new schedule or continued on the current stipend schedule if the extramural grant's budget will not accommodate a salary increase.

Special lecturer credit hour rate applies to graduate students hired to assist in a class. They are not Graduate Assistants. This type of appointment is not widely used outside of the Art Department. In any given semester, the Art Department may hire as 5 graduate students using this schedule. Currently they have only two. A 4% increase would increase the rate from \$726 to \$755 per credit hour.

Funds for the increases would be identified through reallocation of appropriate non designated funds.

Regent Ikawa moved to adopt the proposed graduate assistant stipend schedule reflecting a 4% increase and new special lecturer credit hour rate also reflecting a 4% increase effective July 1, 2000, as presented in President's Memorandum No. 79 (Agenda), Item A-6, dated June 16, 2000. Regent Kobayashi seconded the motion which was unanimously carried.

#### Implementation of the Public Administration Services (PAS) 1993 Study

Senior Vice President Imai said that in 1993, the Public Administration Services (PAS) was contracted to provide consultative services to review the Executive/Managerial (E/M) classification and compensation system by 1) updating the current position classification plan and proposing class changes and salary range assignments, as appropriate; and 2) updating the compensation plan. The consultant's preliminary report contained the following recommendations:

1. PAS acknowledged that the class specifications were relatively up to date. The recommended reallocations were based on internal equity in consideration of: reporting relationships, organizational structure, scope of responsibility, and complexity of the job. In most cases, PAS stated that the recommendations were based on achieving a balance between the above stated factors and salary data.

2. At that time, the University had 35 E/M employees whose salaries exceeded the maximum of the respective ranges. PAS recommended expanding the width of the ranges and increasing range midpoints consistent with the College and University Personnel Association (CUPEA) salary survey medians.

3. PAS recommended adjustments to the 1991 E/M salary schedule based on a linear regression analysis comparing the University salary range midpoints with the CUPA salary survey medians.

4. PAS noted in 1991 that the pay schedule had not kept pace with the external labor market and recommended reallocating approximately 30% of the E/M employees to higher pay grades. The recommendations were based on external market and internal relationships. PAS explained that external salary relationships, using CUPA data, played a primary role in the realignment and reassignment of classes.

5. PAS recommended a "phased in" implementation approach based on the degree of misalignment, budgetary constraints and other considerations.

It is duly noted that the PAS recommendations were **never implemented**. It is therefore recommended that the Board now approve a repricing of executive classes as presented.

Should the proposed PAS repricing and reclassification recommendations be implemented, the total cost would be \$4,008, for 2 incumbents.

Regent Ikawa moved to approve the repricing of Executive classes, as presented in President's Memorandum No. 79 (Agenda), Item A-7, dated June 16, 2000. Regent Kobayashi seconded the motion.

Regent McElrath said it was important for those in the audience who are not here at the earlier meeting to understand that raising the rates for graduate assistants as well as lectureship as well as for the higher categories in the administration ladder is because for many years the State of Hawai'i have not kept pace. As members of the Board of Regents, we have found that it has been increasingly difficult to recruit personnel that would truly place the University at the top of the ladder so far as education is concerned.

Upon call, the motion was unanimously carried.

#### Gifts, Grants, and Contracts

Senior Vice President Teramura recommended that the Board accept the research and non-research grants and

contracts for the time period April 15 to May 15, 2000, for 101 awards for a total value of \$14.2 million. When compared with the same time period last year, the total number of awards has decreased slightly, however, the dollar value of these awards has increased from \$9.6 to \$14.2 million, or 47 per cent. An examination of the year to date data indicates that the following differences have occurred in the first 10-1/2 months of this year as compared to the same time period last year. The total cumulative awards have increased by 12 per cent and the total value of these awards have increased by 9-1/2 per cent with a cumulative value this year of \$154.1 million versus last year's \$140.8 million. Within the next month, we are within \$10 million of setting another record for research grant volume.

Senior Vice President Teramura introduced Mr. James Mellon, Director of UH-Hilo's Student Support Services Program, who described the activities associated with current grants awarded for student support at the University of Hawai'i at Hilo. Mr. Mellon said the Office of Student Services at UH-Hilo has been awarded numerous extramurally funded programs over the years from \$1,500 seed projects to multi-year million dollar grants. He highlighted three of the programs, the Upward Bound programs, the Student Services Support Programs and the Health Careers Opportunity Program.

Regent Dowling moved to accept the gifts and grants and ratify the actions of the administration in executing the necessary contracts, as presented in President's Memorandum No. 79 (Agenda), Item A-8, dated June 16, 2000. Regent Kobayashi seconded the motion which was unanimously carried.

President Mortimer said that under the leadership of Senior Vice President Tseng and Special Advisor Masumoto, the Research Corporation of the University of Hawai'i (RCUH) is opening an office in Hilo. The University of Hawai'i at Hilo will have access to its own research infrastructure and will be developing its own proposals and have its own autonomy over the question of how it proposes to make research grants and to what agencies it applies.

Appointments, Changes in Appointments, Leaves of Absence, Promotion, Tenure, Waiver of Minimum Qualifications, Emeritus Titles, Shortening of Probationary Period, Salary Adjustments, Position Actions, Classification and Pricing

President Mortimer requested that the agenda be amended to include the following personnel items:

1. Reappointment of Dr. Roderick A. Jacobs as Interim Dean, College of Languages, Linguistics and Literature, University of Hawai'i at Manoa, effective September 1, 2000 through August 31, 2001, or until a permanent dean is appointed, whichever occurs first.
2. Off-scale Salary for Dr. David K. Lassner, Director of Information Technology.
3. Emeritus title to Dr. Patrick K. Takahashi, former Director, Hawai'i Natural Energy Institute, University of Hawai'i at Manoa.
4. Appointment of Dr. Keith M. Miser as Vice Chancellor for Student Affairs, University of Hawai'i at Hilo, effective August 1, 2000.
5. Awarding of tenure with automatic promotion to Dr. Beei-Huan Chao, Assistant Professor, Department of Mechanical Engineering, University of Hawai'i at Manoa, retroactive to July 1, 1998.
6. Appointment of Dean and Professor Rosanne Harrigan as the Frances A. Matsuda Chair in Women's Health, School of Nursing and Dental Hygiene, University of Hawai'i at Manoa, effective July 1, 2000 through June 30, 2004.
7. Salary Adjustment of Mr. Hugh Yoshida, Director of Intercollegiate Athletics, University of Hawai'i at Manoa.
8. Reappointment of Ms. Kathleen Jaycox as Acting Vice Chancellor for Student and Community Affairs, Community Colleges, effective July 1, 2000 through August 15, 2000.
9. Reappointment of Mr. Ramsey Pederson as Interim Provost, Honolulu Community College, effective July 1, 2000 to June 30, 2001, or until the position is filled, whichever occurs sooner.
10. Appointment of Dr. Paul E. Nachtigall as Interim Director, Hawai'i Institute Marine Biology, School of Ocean and Earth Science and Technology, University of Hawai'i at Manoa.
11. Transfer Locus of Tenure for Dr. D. William Wood from the School of Public Health to the College of Social Sciences, University of Hawai'i at Manoa.
12. Appointment of Dr. Rolf-Peter Kudritzki as Director of the Institute of Astronomy, University of Hawai'i at Manoa, effective October 2, 2000.

Regent Kodani moved to amend the personnel agenda to include the items as requested. Regent Ikawa seconded the motion which was unanimously carried.

President Mortimer recommended the appointments, changes in appointments, leaves of absence, promotion, tenure, waiver of minimum qualifications, emeritus titles, shortening of probationary period, salary adjustments, position actions, classification and pricing as follows:

UNIVERSITY OF HAWAI'I SYSTEMWIDE

Executive

MORTIMER, KENNETH P.

President, University of Hawai'i and Chancellor  
University of Hawai'i at Manoa and Professor  
Professional Improvement Leave and  
Waiver of Return Service Requirement  
July 1, 2001 - June 30, 2002

Regent Ikawa moved to approve the personnel actions, as amended and presented in President's Memorandum No.

79 (Agenda), Item B-1, dated June 16, 2000. Regent Kobayashi seconded the motion which was unanimously carried.

President Mortimer introduced Dean Rosanne Harrigan, the first holder of the Frances Matsuda chair of Women's Health in the School of Nursing and Dental Hygiene. Dean Harrigan said she was honored to receive and be the first holder of the Frances Matsuda Chair.

#### Resignations and Retirements of Board of Regents' Appointees and Civil Service Employees

President Mortimer presented for information the resignations and retirements of Board of Regents' appointees and retirements of Civil Service employees. He expressed the University's appreciation for their special contributions to the University and wished them well in their future endeavors. (The list of resignations and retirements is presented in President's Memorandum No. 79 (Agenda), Items C-1 and C-2, dated June 16, 2000.)

Regent McElrath mentioned that the resignation list seemed inordinately long. President Mortimer responded that it was the end of the fiscal year and many people target that date.

#### IV. ORAL REPORT OF THE EXECUTIVE OFFICER

President Mortimer said that the adoption of the Mauna Kea Science Reserve Master Plan assures the stature of the University of Hawai'i as a world leading institution for astronomical research. It is a symbolic statement of the Board and the administration of this University of attempting serious efforts to work more closely with the communities that we serve. The University now stands on a threshold ready to go forward under the leadership of Senior Vice President Tseng with a partnership of community members on the Big Island. Over the next few months, there will be completion of several significant mile stones as the master plan foundation arises. Among the first of these would be the appointment of a prominent community member to two crucial advisory groups, the Mauna Kea Management Board and the Kahu Kupuna Council. Within the management framework established under the plan, these two groups provide the essential component of advice from and consultation with the broader community as management decisions are formulated and processed. The ground work for these appointments has already started.

President Mortimer announced the appointment of a new director of the Institute for Astronomy, Dr. Rolf-Peter Kudritzki, effective October 2, 2000. He is currently Professor of Astronomy and Director of the Institute of Astronomy and Astrophysics at the University of Munich and is a member of the Max-Planck-Institut for Astrophysics, one of the highest honors bestowed in the scientific community. The acceptance of his appointment has generated considerable excitement in the astronomy community in Hawai'i and abroad.

President Mortimer informed that preparations are being made for recruitment and hiring of a Director for the new Office of Mauna Kea Management. By Fall 2000, he anticipated having a leader at the helm of the new management organization for Mauna Kea operations, as well as an internationally known scientist and administrator, Dr. Kudritzki, at the helm of the Institute for Astronomy. Under the Master Plan, day-to-day management of activities and services on the mountain will be localized on the UH-Hilo campus. This represents a fundamental change, both in the management of Mauna Kea operations and in the relationship between major campuses of the University. Development and completion of the Mauna Kea Science Reserve Master Plan constitutes a historic enterprise, and no such endeavor can succeed without the dedication and hard work of many individuals and groups.

President Mortimer extended thanks to those who brought the Mauna Kea Master Plan to this point, foremost being the Regents themselves, and particularly Regents Bergin, Ikawa and Thompson who individually and collectively devoted countless hours to ensure that this plan reflects as comprehensive a process of community consultation as this University has ever undertaken. He also thanked the many groups who devoted effort to this process, in particular, the Mauna Kea Advisory Committee for the substantial contributions at the early stages. He also thanked Pila Wilson and Larry Kimura who co-chaired the committee with no increase in stipend and considerable sacrifice to their own professional activities. At a later stage in the process, the University again was a beneficiary of the personal attention of Senator Daniel K. Inouye and the convocation of a group of representatives from the native Hawaiian community, the University and the observatories. Without the Senator's direct interest and efforts, progress would not have brought us to this stage, and we are grateful to him and to his office for their contributions. The representatives of the native Hawaiian community themselves formed a special group, Ahahui Ku Mauna, which showed extraordinary patience and dedication in conveying a sense of the reverence of their community for the mountain to me, to the Regents and to others members of the University community as the plan moved to its final form. He also acknowledged the countless hours and hard work of consultants, Group 70 and the Johnson Strategy Group, as well as the tireless efforts of Senior Vice President Teramura and faculty and staff and the institute, particularly Interim Director Bob McLaren. On behalf of the University of Hawai'i, he extended deepest thanks, and looked forward to continued participation as we move forward in implementing the plan.

President Mortimer said the United States Department of Education had recognized that the University of Hawai'i as a leader in Asian and Pacific Studies, by awarding three grants nearly \$3 million over the next three years.

#### V. OTHER OR NEW BUSINESS

##### Report of the Regents' Committee on Personnel Relations on the 1999-2000 Promotion and Tenure



## Recommendations

Regent Ikawa, Vice Chairperson of the Regents' Committee on Personnel Relations stated that, having been assured that the respective reviews for promotion and tenure were conducted in accordance with established University criteria and procedures, recommended approval of the 1999-2000 promotion and tenure recommendations.

Last year, the Committee expressed its disappointment that student evaluation of faculty, particularly regarding the quality of their pedagogy, was not a systematic part of the review process. The Committee is pleased to report that since then, the Administration has assured the Board that teaching evaluation will be part of faculty reviews.

During the previous cycle, the Committee had also requested that the Administration review the current system to better define the Regents' role within the confines of the faculty contract. The Committee reiterates its request in light of the on-going expectation that the Regents' role in the promotion and tenure process remain perfunctory, begging the question as to how other institutions regard their governing boards' involvement in academia's most sacred tradition.

Finally, the Committee expressed its concern over the current tenure process which appears to suffer from an inability to provide for a true peer review system. The Board, for example, was compelled to consider a candidate who had gone through a process that perpetually remands negative recommendations through review after review until a panel and chair recommends approval simply, in this case, to halt a divisive exercise. This is most troubling for the Regents who must be able to constantly assure their constituencies that this is a quality institution. It is with great anticipation, therefore, that the Committee requests that these issues be remedied administratively and if not, addressed through the collective bargaining process.

The Committee wishes to congratulate those who are hereby approved for tenure and promotion and extends its appreciation to them for choosing to make their professional commitments here at the University of Hawai'i. The Committee looks forward to their continued contributions throughout the coming years.

Regent Ikawa moved to approve the recommendations for promotion and tenure for 2000 as recommended. Regent Dowling seconded the motion which was carried by majority vote. Regent Nunokawa recused himself from this portion of the meeting and from the vote.

## Board of Regents' Resolution Honoring Regent Clyde T. Kodani

Regent Thompson introduced the following resolution honoring Regent Clyde T. Kodani:

WHEREAS, Clyde T. Kodani, a proud son of the island of Kaua'i, earned his baccalaureate degree in engineering from the University of the Pacific and subsequently a master's degree from the University of California at Berkeley; and

WHEREAS, he currently heads a successful civil engineering consultant firm, Kodani & Associates, located in Lihu'e Kaua'i; and

WHEREAS, in July of 1993 Governor Waihee appointed Clyde Kodani to the University of Hawai'i Board of Regents; and

WHEREAS, during his tenure on the Board Regent Kodani served with dedication and distinction as the Chairperson of the Budget and Long-Range Planning Committee, the Finance Committee, and the Community College Committee, playing a vital role in strengthening and expanding higher education opportunities particularly for residents of our neighbor islands through the University's system of community colleges; and

WHEREAS, Regent Kodani also served as the Vice Chairperson of the Regents' Committee on Student Affairs, and the Committee on Personnel Relations, as well as a member of the Regents' Committee on Academic Affairs, Committee on University Relations and the Committee on Physical Facilities and Planning; and

WHEREAS, in July of 1998 his fellow Regents expressed their confidence in his leadership by electing him Vice Chairperson of the Board for the 1998-99 academic year, reaffirming their confidence in him by re-electing Regent Kodani as Board Vice Chairperson for the 1999-2000 academic year; and

WHEREAS, Regent Kodani, in addition to his service as a member of the Board of Regents, is also active in professional organizations including the Hawai'i Society of Professional Engineers, Institute of Transportation Engineers, Kaua'i Society of Professional Engineers, Architects and Land Surveyors, and the American Society of Civil Engineers; and

WHEREAS, he also gives unselfishly of his time to community and civic endeavors as a member of the Board of Directors of the Association of Retarded Citizens, the Building Board of Appeals for the County of Kaua'i, and as a member of the Board of Directors of the Research Corporation of the University of Hawai'i; and

WHEREAS, Regent Kodani will culminate his term on the Board of Regents in June of 2000; now therefore

BE IT RESOLVED, that the Board of Regents of the University of Hawai'i extends its appreciation to Regent Kodani for his dedicated service, contributions and untiring sacrifice on behalf of the University of Hawai'i and the State of Hawai'i and for having enriched the Board through his modest, yet forthright leadership, unwavering integrity, and for his constant strive for unity and 'ohana throughout the Board and the University of Hawai'i; and

BE IT FURTHER RESOLVED, that a Regents' medal along with this resolution be presented to Regent Clyde T. Kodani with heartfelt *mahalo* and *aloha* from his fellow Regents and the entire University of Hawai'i

community.

Upon motion by Regent Thompson and second by Regent Kobayashi the resolution was unanimously adopted.

Regent Kodani thanked President Mortimer, the administration, BOR staff, faculty, students, and the community for allowing him to work with them.

University of Hawai'i Board of Regents' Resolution on the Management of the Mauna Kea Science Reserve

Chairperson Kim asked Regent Ikawa for a report from the Mauna Kea Sub-Committee.

Regent Ikawa reported that the Sub-Committee on the Mauna Kea Master Plan was charged with the responsibility of monitoring the progress of the plan's development. As taken early in the agenda, the master plan with amendments were adopted. He recommended that the sub-committee be dismissed. On behalf of Regents Bergin, Thompson, and himself, he thanked the members of the Ahahui Ku Mauna for showing them the right way. He recognized the kupunas Ed Stevens, David Roy, Arthur Hoke, Ululani Sherlock, Larry Kimura who were present as well as those who were not, Pualani Kanahele, Hannah Springer, and Charlie Young. He also thanked Mr. Bill Kikuchi from Senator Inouye's office, Board of Regents staff David Iha and Carl Makino, and Senior Vice President Kirimitsu.

Chairperson Kim thanked Regent Ikawa for his report and dismissed the sub-committee to monitor the progress of the Mauna Kea Master Plan.

Chairperson Kim then allowed Regent Bergin to introduce two resolutions on Mauna Kea.

Regent Bergin thanked Secretary Iha and Administrative Officer Makino for their work in drafting both resolutions.

Regent Bergin introduced the following University of Hawai'i Board of Regents' Resolution on the Management of the Mauna Kea Science Reserve.

WHEREAS, the Mauna Kea Science Reserve is located on 11,288 acres of ceded lands leased by the University of Hawai'i from the State primarily for use as a science complex for its astronomy related programs and research; and

WHEREAS, Mauna Kea is a precious resource to the entire State of Hawai'i and regarded as a sacred place particularly by Hawai'i's native Hawaiian community; and

WHEREAS, as mere stewards of Mauna Kea, the University of Hawai'i has an obligation to protect this sacred place and its unique resource, discharging its managerial responsibilities with utmost sensitivity; and

WHEREAS, the Legislative Auditor, in 1998, issued a report critical of both the University as well as the Department of Land and Natural Resources, title-holder of the lands on Mauna Kea, over their management of the mountain's cultural and natural resources, recommending that a management plan be developed that clearly delineates the respective responsibilities between the two agencies relative to Mauna Kea; and

WHEREAS, in response to the Auditor, President Mortimer appointed the Mauna Kea Advisory Committee in 1998 to obtain community input on the management of Mauna Kea as part of a process to update the master plan for the Mauna Kea Science Reserve which was originally adopted in 1983; and

WHEREAS, after months of deliberation during which the Mauna Kea Advisory Committee considered several management options, the Committee recommended the

establishment of the Mauna Kea Management Board under the jurisdiction of the University of Hawai'i at Hilo, a recommendation supported by President Mortimer in the form of an initial funding commitment of \$400,000; and

WHEREAS, the recent Mauna Kea Master Plan update includes the Mauna Kea Management Board as well as a cultural board, the Kahu Kupuna Council, as integral partners in the management and preservation of Mauna Kea's cultural and natural resources; and

WHEREAS, through this management structure, the University, as responsible stewards of the mountain, acknowledges the sacredness of Mauna Kea and its responsibility to properly manage Mauna Kea's cultural, educational, environmental and scientific resources; now therefore,

BE IT RESOLVED, that the Board of Regents of the University of Hawai'i directs its administration to immediately begin the process of establishing the Office of Mauna Kea Management, the Mauna Kea Management Board, and the Kahu Kupuna Council, along with necessary funding, with the stipulation that there be no new developments beyond existing contracts on Mauna Kea until these managerial entities are established; and

BE IT FURTHER RESOLVED, that while ultimate policy-making authority rests with the Board of Regents for the lands leased by the University, the Board recognizes that the Mauna Kea Management Board and the Kahu Kupuna Council are critical and essential partners in the proper management of Mauna Kea's cultural, educational and natural resources, and their input shall be submitted with any administrative recommendation to the Board of Regents; and

BE IT FURTHER RESOLVED, that copies of this resolution be presented to President Mortimer, the various organizations with facilities and programs atop Mauna Kea, interested parties within the native Hawaiian community, as well as other organizations deemed appropriate with the understanding that the administration is to provide the Board with a progress report at its regular meeting in October 2000 to include efforts to secure on-going funding to properly manage Mauna Kea's cultural, natural, and educational resources, with the greater hope that this endeavor shall be embraced as a sincere initiative towards building a better

sense of trust and respect between the cultural, environmental, and scientific communities, a vision that at its heart, one finds a healthy community; and

BE IT FINALLY RESOLVED, that the Board expresses its heartfelt *mahalo* to the many individuals and organizations who, during the arduous and emotionally trying two years of this planning process, provided their input, their *mana'o*, their support, and their *kokua* in working with the Board of Regents and the University in trying to strike a meaningful balance between the preservation and protection of the cultural and natural resources of Mauna Kea and the continued pursuit of the sacred gift of knowledge.

Upon motion by Regent Bergin and second by Regent Ikawa the resolution was unanimously adopted.

Regent Bergin then introduced the Board of Regents' Resolution on the Development and Implementation of the Educational, Cultural, and Environmental Components of the Mauna Kea Master Plan.

WHEREAS, the mountain known as Mauna Kea is located on the island of Hawai'i and is the highest summit in the State of Hawai'i; and

WHEREAS, Mauna Kea is recognized for its cultural and spiritual sacredness, a regard that must be protected and respected with utmost sensitivity and awareness; and

WHEREAS, the Mauna Kea Science Reserve is located on Mauna Kea, ceded lands leased by the University from the State for use as a science complex; and

WHEREAS, in order to guide the development of the Science Reserve, a Mauna Kea Master Plan was adopted by the Board of Regents in 1983; and

WHEREAS, in updating that 1983 Plan a new Master Plan was drafted, containing several new components in order to better manage and protect the cultural, environmental, and scientific resources of this unique place, Mauna Kea; and

WHEREAS, in addition to new sections dealing with cultural and environmental directives to respect and protect the sacredness of Mauna Kea, the current Master Plan also contains an educational component which speaks of a commitment to share the scientific knowledge with as many learners as possible from grade levels elementary through postsecondary; and

WHEREAS, one of the goals of the current Master Plan would be to encourage young students from Hawai'i to explore the area of astronomy as an academic discipline as well as a possible lifetime avocation; and

WHEREAS, the Mauna Kea Master Plan envisions a limited number of projects in the future which must incorporate and fulfill the educational condition of the Plan, signifying the beginning of renewed trust and respect rather than the end of a process; now therefore,

BE IT RESOLVED, that the Board of Regents of the University of Hawai'i directs the University administration to develop a plan, in consultation with appropriate organizations and individuals, to implement the shared vision of the educational, cultural, and environmental components of the Mauna Kea Master Plan, recognizing in that process, the University's wish to further its commitment to diversity and remain the premier resource in Hawaiian affairs as stipulated in goal No. 4 of the University's Strategic Plan by advancing our focus on preserving the native Hawaiian heritage in language, culture, and history, providing therefore, a true synergy between the sacred lands of Mauna Kea, the scientific opportunities afforded by those lands, and the vision of the Master Plan's educational component; and

BE IT FURTHER RESOLVED, that a timeframe be established whereby the administration is to present to the Board at its regular meeting in October 2000, a quality educational, cultural, and environmental program plan along with a budget and tangible funding sources to realize that budget, and within six months, a plan for the implementation of those programs with significant progress demonstrated within a year from this date; and

BE IT FURTHER RESOLVED, that copies of this resolution be presented to University of Hawai'i President Kenneth P. Mortimer, the various organizations with facilities and programs atop Mauna Kea, appropriate organizations within the native Hawaiian community, as well as other organizations as deemed appropriate with the understanding that annual reports be made to the Board on continuing efforts to protect the spiritual sacredness of the mountain and its environment, and provide meaningful educational benefits through resources afforded by Mauna Kea, with the greater hope that this endeavor on the part of the University of Hawai'i shall be embraced as a sincere initiative towards building trust and understanding between the cultural, environmental, and scientific communities, a vision that at its heart, one finds a healthy community; and

BE IT FINALLY RESOLVED, that the Board expresses its heartfelt *mahalo* to the many individuals and organizations who, during the arduous and emotionally trying two years of this planning process, provided their input, their *mana'o*, their support, and their *kokua* in working with the Board of Regents and the University in trying to strike a meaningful balance between the preservation and protection of the cultural and natural resources of Mauna Kea and the continued pursuit of the sacred gift of knowledge.

Upon motion by Regent Bergin and second by Regent Ikawa the resolution was unanimously adopted.

Chairperson Kim thanked those involved who brought the master plan to its conclusion. He acknowledged the efforts of the advisory group co-chaired by Pila Wilson and Larry Kimura, the members of Ahahui Ku Mauna, and also the Regents' sub-committee on Mauna Kea Regents Bergin, Ikawa, and Thompson. He expressed that throughout history there will be issues that can never be fully embraced by all people. However, the Board of Regents truly appreciates the support from the cultural, environmental and science communities. He stated that the plan had come a long way but the real challenge lies ahead. He believed the Board had truly

listened and tried to strike an honest balance and asked that harmony and civility prevail.

Chairperson Kim called on Regent Ikawa to report on the sub-committee on presidential search procedures.

Regent Ikawa reported that at the May meeting of the Board of Regents the members of the Regents' Committee on Personnel Relations were assigned to a sub-committee charged with the task of looking into the matter of a plan for a presidential search. After reviewing the search procedures used during the previous presidential search as well as information from national sources--and after consulting with several individuals who were intimately involved with the last search, the subcommittee recommended that a consultant be retained as in the previous search. The consultant would be selected from among several reputable firms specializing in identifying and gathering candidate information on executives. The consultant would have as its initial assignment, the task of obtaining input from our various constituencies about the qualities they feel would be essential for the next University of Hawai'i President. The consultant would also advise the Board on presidential search procedures. The sub-committee further recommended that a screening committee be appointed in accordance with Board bylaws and policies. The suggested composition would include four (4) Regents, one of whom shall act as the chairperson of this committee; one (1) faculty representative from the Manoa campus; one (1) faculty representative from the Community College campuses; one (1) faculty member representing the Hilo and West O'ahu campuses; one (1) student representing the research and baccalaureate campuses; one (1) student representing the Community College campuses; a (1) representative from the professional support staff; five (5) members of the community-at-large; one (1) Community College provost; and one (1) representative from among the executive administrators of all baccalaureate campuses, for a total of seventeen (17) members. The charge to the screening committee would be to review all dossiers to screen the candidates down to a non-ranked list of no less than 10 and no more than 20 semi-finalists. The screening committee's recommendation would be submitted to the Board of Regents for final consideration review.

Announcements would be placed in local newspapers with statewide circulation as well as the current holder of government classified ads. In addition, announcements would be placed in the *Chronicle of Higher Education* as well as other national publications as deemed appropriate. It is further planned that pertinent information be made available to appropriate networks such as AGB and ACCT as well as professional organizations such as SHEEO. The announcement would be drafted around the information gathered by the search consultant relative to the qualities deemed essential by our constituencies.

The suggested time-table would be to appoint the screening committee in September and convened as soon as possible for an orientation. Announcements would be run during the month of September for approximately four (4) weeks. The process of reviewing dossiers would commence in October in order to have a recommendation to the Board in November after which all necessary background and reference checks would be conducted. The Board would then reduce the semi-finalists to a list of not less than five (5) finalists who would be interviewed by the Board. Universitywide visits, if possible, would be conducted during the month of January 2001 followed by a final decision around February. Pending negotiations, an appointment could be made in March or there about, allowing for 2-3 months of transition before President Mortimer leaves on his sabbatical.

Chairperson Kim thanked the members of the sub-committee for their work and dismissed the committee.

Chairperson Kim then appointed Regents Bergin, Ikawa and Thompson to a sub-committee to monitor the implementation of the Mauna Kea Master Plan. He also appointed Regent Yao and the Personnel Committee to recommend a consultant to assist the Board in its presidential search. With the assistance of the BOR staff, the Committee is to make a recommendation at the Board's July meeting.

## VI. ANNOUNCEMENT

### Next Meeting

Chairperson Kim thanked Senior Vice President Tseng for hosting dinner the previous evening and for the hospitality of UH-Hilo. He announced that the next meeting will be held on July 21, 2000, at 8:30 a.m., at the University of Hawai'i at Manoa.

## VII. ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 9:45 a.m.

Respectfully submitted,

David Iha, Secretary

**Quick links to campus homepages:** [Manoa](#) [Hilo](#) [West O'ahu](#) [Hawai'i](#) [Honolulu](#) [Kapi'olani](#) [Kaua'i](#) [Leeward](#) [Maui](#) [Windward](#)



## EXHIBIT 7

**MINUTES**  
**UNIVERSITY OF HAWAII BOARD OF REGENTS' MEETING**  
**April 16, 2009**

**I. CALL TO ORDER**

Chair Allan Landon called the meeting to order at 9:05 a.m. on Thursday, April 16, 2009, at Kapolei Hale, Conference Room A, City and County of Honolulu, 1000 Ulu'ohi'a Street, Kapolei, HI 96707.

Quorum (12): Chair Allan Landon; Vice Chair Howard Karr; Artemio Baxa; Carl A. Carlson; Michael Dahilig; Ramon de la Peña, Ph.D.; Dennis Hirota, Ph.D.; Eric Martinson; Ronald K. Migita; Teena Rasmussen; Harvey Tajiri; and Grant Teichman.

Excused (3): Mark Fukunaga; Chuck Gee; and James Haynes II.

Others in attendance: President David McClain, Ph.D.; Vice President for Academic Planning & Policy Linda Johnsrud, Ph.D.; Vice President for Budget & Finance/Chief Financial Officer Howard Todo; Vice President for Community Colleges John Morton, Ph.D.; Vice President for Research Jim Gaines, Ph.D.; Vice President for Information Technology Services/Chief Information Officer David Lassner, Ph.D.; Associate Vice President for Legal Affairs Ruth Tsujimura, Esq.; Associate Vice President for Capital Improvements Brian Minaai; Associate Vice President for Student Affairs Karen Lee; Associate Vice President for External Affairs/University Relations Carolyn Tanaka; Interim Executive Administrator and Secretary of the Board Presley Pang, Esq.; and others as noted.

**II. APPROVAL OF MINUTES**

Upon motion by Regent Dahilig and second by Regent Rasmussen, the minutes of the March 20, 2009 meeting were unanimously approved.

**III. PUBLIC COMMENT PERIOD**

Public comments can be found under the item *Affirmation of University of Hawaii Commitment to the Financing and Implementation of the Mauna Kea Comprehensive Management Plan*.

#### **IV. REPORT OF THE PRESIDENT**

President McClain introduced UH West O'ahu Chancellor Gene Awakuni, who welcomed the Regents to West O'ahu and to Kapolei Hale, and thanked the Mayor for once again permitting the use of this city facility for a BOR meeting.

The President congratulated UH System Vice President Linda Johnsrud, who was recently named Businesswoman of the Year by *Pacific Business News*. He also congratulated a student team from Kapi'olani Community College, who won the western regional competition of the American Culinary Federation. They will compete for the national title in Orlando in July.

President McClain reported that the University is nearing completion of a 7 ½ year, \$700,000 program of repairs and minor facility upgrades to the Jean Charlot residence, located in the Kahala area of O'ahu. UH Mānoa School of Architecture visiting faculty are currently using the residence.

President McClain reported that, as of April 14, the University of Hawai'i Foundation has received \$270.9 million in the Centennial Campaign, nearly \$21 million above the goal of \$250 million. The campaign concludes on June 30, 2009.

The President noted the successful offering of \$100 million in special purpose revenue bonds on March 30-31; the bonds were priced to yield 5.18%, less than the expected cost of 5.5%. The proceeds will be used for student housing for UH Mānoa and UH Hilo; additions to the UH Mānoa Biomedical Building for the new Center for Microbial Ocean Research and Education (the dedication for which was held yesterday); an addition to the UH Hilo bookstore campus center addition; the development of the UH West O'ahu campus; and the acquisition of a building for the Wai'anae Education Center administered by the Leeward Community College campus. In addition, \$13.3 million in bonds for faculty housing on the UH Mānoa campus were refinanced, saving \$1.3 million. The President expressed his appreciation to Vice President and CFO Howard Todo for his leadership of this effort.

The State Senate and House have now both passed operating and capital improvements budgets, and will move to conference next week. Allowing for expected offsets from Federal stimulus funds, the University is still expected to experience larger operating budget cuts than the \$14 million reduction in the Governor's budget, which used her "10%" reduction scenario. The magnitude of the required reductions may well be larger than the \$31 million decline in the "20%" reduction scenario. The BOR approved both the 10% and 20% scenarios at its meeting last October. Capital improvement budgets passed by the House and Senate are about one-third of the Board of Regents budget request of \$617 million in general obligation bond funds.

Two of the three UH initiatives are still alive in the Legislature: rulemaking for Mauna Kea, and authorization of a larger ceiling on UH-issued special purpose revenue bonds. The third initiative, exemption of UH from the State procurement code, has not



been successful; however, other procurement bills contain reforms in the State procurement code that UH has sought for itself.

Sustainability Matters: Kapiolani Community College has launched a new website highlighting its efforts. UH Mānoa is celebrating Earth Day on April 22 with a Sustainability Fest. UH Mānoa's Outreach College is featuring a number of summer courses focusing on sustainability, energy and the environment.

The President reported that since the last Board of Regents meeting, Kaua'i Community College Chancellor Helen Cox hosted a Rubber Slipper Tour on March 31. The next Tour is scheduled for Maui Community College on May 1.

## **V. ITEMS FOR BOARD ACTION**

Vice Chair Karr made an omnibus motion to approve agenda items 1, 2, 3, 4, 5, and 6, seconded by Regent Carlson. Discussion followed.

### **1. Approval to Establish the Hawai'i Center for AIDS within JABSOM Department of Medicine**

John A. Burns School of Medicine (JABSOM) asked that the existing administrative structure for a multidisciplinary group of 14 faculty members who currently work at Lē'ahi Hospital in the area of HIV/AIDS and related illnesses be designated a "center." "Center" status will provide a formal BOR-sanctioned identity under which local community, national and international activities can be conducted.

Regent Rasmussen asked what would happen to the Center if the current \$800,000 annual state funding were no longer available. Dr. Jerris Hedges, Dean of JABSOM, responded that there is no commitment to continue funding at the current level. The intent of designating a center is to perpetuate the name, presence and identity of core programs. The funding level will vary based on philanthropy and research grants. However, JABSOM will sustain the Center's activity because of its value to the community. Dr. Hedges added that with center status, the group will have a greater chance of receiving philanthropic and federal funding.

### **2. Approval to Amend BOR Policy, Chapter 6-8(b)(4) on UH Library External Services Program Fee Schedule and to Amend the UH Library Fees Charged for External Services Program**

The Board was asked to amend Board Policy, Chapter 6-8(b)(4) and the University of Hawai'i library fees charged for external services.

In 1995 the BOR approved fees for the External Services Program. Since then, technological changes have enabled the University libraries to provide additional

services and made other services obsolete. The cost of providing many services has increased requiring fee increases. The proposed amendments update the fee schedules accordingly.

Regent Migita asked whether fees are periodically reviewed on a systemwide basis. President McClain said that the System Administration relies on the campuses to review their fees and request updates as needed.

Vice President David Lassner explained that fees are “established” by the Board. However, the President is delegated the authority to determine the amount of the fees. If the fee is mandatory, the Board establishes the fee and determines the amount of those fees.

Chair Landon suggested establishing a systemwide schedule for reviewing the fees. Vice Chair Karr suggested having the fee schedule include the date of the last increase and the date of the next scheduled review.

### **3. Approval of Honorary Degree to Albert Wendt**

Professor Albert Wendt is being recommended for the Honorary Doctor of Humane Letters in recognition of his numerous contributions to education and literature of the Pacific, including his eloquent and passionate advocacy for the arts of the Pacific's indigenous people. Through his literature and art work, the profile of Oceanic indigenous literature and its influence have increased throughout the Pacific and in national arenas.

### **4. Approval of Honorary Degree to Agnes Cope**

Mrs. Agnes Kalanihookaha Cope is being recommended for the Honorary Doctor of Humane Letters in recognition of her numerous contributions in education, community service, and advocacy of Native Hawaiian culture, art, healthcare and development. With her passion and perseverance, she continues to engage the community in the development of Native Hawaiians in the areas of education, art, healthcare and cultural preservation, having significant impact on the community and the State of Hawai'i.

### **5. Approval of Honorary Degree to Jerry Yang**

Mr. Jerry Yang is the co-creator of the Yahoo! Internet navigational guide, and is being recommended for the Honorary Doctor of Humane Letters in recognition of his pioneering work in facilitating the widespread use of electronic technology and the Internet.

**6. Approval to Amend BOR Policy, Chapter 9-2, Intercollegiate Sports, to Recognize the Women's Basketball Program and to Establish an Appropriate Salary Range for the Women's Basketball Head Coach Position at UH Hilo**

UH Hilo requested that the Board recognizes the women's basketball program and establish an appropriate salary range for the head coach. The hiring of a full-time coach will help the UH Hilo Office of Intercollegiate Athletics achieve the appropriate ratio of mandated expenditures, participation numbers, and number of FTE coaches required by Title IX.

A salary range of \$56,336 to \$79,486 was requested.

In response to a question from Regent Karr, Vice Chancellor Luoluo Hong responded that the campus was targeting Fall 2009 as the starting date of the women's basketball program. The campus currently has a temporary, casual hire in that position.

Regent Tajiri asked why the women's coach's salary is higher than the men's coach. He requested a comprehensive review of the coaches' salaries. Vice Chancellor Hong replied that the salary proposed for the women's coach is based on the most recent data from 2008-2009, whereas the salary ranges for the existing coaches were established in 2003. UH Hilo intends to adjust the current existing salary ranges for all existing coaches, review these salaries biannually, and request Board approval of new salary ranges in fall 2009.

Regent Martinson asked whether the salary range is comparable within UH Hilo's conference. Vice Chancellor Hong responded that their conference is very small and includes private schools so the Office of Human Resources looked at other comparable institutions to provide a larger comparison pool.

As moved and seconded and discussed, the foregoing 6 items were unanimously approved.

**7. Approval of a Provisional Certificate of Achievement in Veterinary Assisting at Windward Community College**

Windward Community College Chancellor Angela Meixell requested approval of a provisional Certificate of Achievement in Veterinary Assisting. Veterinarians in the community approached Windward Community College to offer such a program because there are no veterinary assisting programs in the state. The College views this provisional certificate as the first step towards a future accredited veterinary technology program. Several community veterinarians are providing clinical and laboratory sites for the program.

Upon motion by Regent Carlson and second by Regent de la Peña, the provisional Certificate of Achievement in Veterinary Assisting was unanimously approved.

Regent Dahilig made an omnibus motion to approve items 10, 11, and 12, seconded by Regent Rasmussen.

**10. Approval of the Creation and Authorization to the President to Establish a Federal Trade Commission (FTC) Red Flags Rule Identity Theft Prevention Program**

The FTC Red Flags Rule requires “financial institutions” and “creditors” that offer “covered accounts” to consumers to establish and administer identity theft prevention programs in accordance with guidelines set forth in the Rule. It also applies to other businesses and nonprofit organizations that extend credit to consumers. Because the University has identified “covered accounts,” the University is required by the Rule to create such a program. A “covered account” is a continuing relationship established by an individual with the University in which the University extends credit to the individual to obtain goods or services, or accepts a deposit from the individual, primarily for personal, family or household purposes, and that involves or is designed to permit multiple payments or transactions. Vice President David Lassner will be consulted on this program.

**11. Approval to Amend BOR Policy, Chapter 9-14, Part II, Related to Appointments and Re-Appointments of Executive Personnel**

The proposed amendments are intended to clarify and reinforce the Board's intent and understanding that executive personnel serve at the pleasure of the University and may be terminated or reassigned, as appropriate, with proper notice.

**12. Approval to Establish Systemwide Owner-Controlled Insurance Program for New Construction Projects**

The Administration requested approval to proceed with investigating and evaluating the establishment and operation of a systemwide Owner-Controlled Insurance Program (OCIP), including the completion of the OCIP Feasibility Study. An OCIP to cover improvement projects throughout the University system is anticipated to yield savings in insurance costs and result in improved, consistent, and “no-gap” insurance coverage.

Before officially establishing the OCIP, the Administration needs to (1) complete its investigation and evaluation, and (2) submit its recommendation to and obtain the approval of the Board.

In response to Regent Hirota's request for further clarification of this program, Associate Vice President Brian Minaai responded that the University would obtain insurance, rather than require that the contractor obtain the insurance and charge the

University for that insurance, as is done currently. The insurance would be on a project-specific basis, affecting only construction services and not professional design services. As the owner of several projects, the University could take advantage of its “bulk buying” status when obtaining insurance.

Mr. Minaai explained that he would like to retain an insurance consultant to help develop a Request for Proposal to establish criteria for the program, evaluate the proposals received, and to also hire an insurance administrator for this program.

As moved and seconded and discussed, items 10, 11, and 12 were unanimously approved.

**Bachelor of Applied Science Degree in Applied Engineering Technology at Maui Community College (information only)**

President McClain informed the Board that because the establishment of a second baccalaureate degree at a community college has wide-ranging implications, this proposed program is being presented for information. The Board will be asked for program approval at a later date.

A second baccalaureate program at a community college would affect how that college is accredited. The University is subject to accreditation oversight by two separate bodies within the Western Association of Schools and Colleges (WASC): one for community colleges, the Accrediting Commission for Community and Junior Colleges (ACCJC), and one for baccalaureate institutions, the Accrediting Commission for Senior Colleges and Universities (ACSCU). According to the protocol between the 2 accreditors, when more than 1 baccalaureate degree is offered at a community college, the locus of accreditation moves from the community college accreditor to the baccalaureate accreditor. With the addition of a BA degree in Applied Engineering Technology, Maui Community College would move its locus of accreditation to ACSCU, since it currently offers a Bachelor of Applied Science in Business and Information Technology.

Maui Community College Chancellor Clyde Sakamoto presented a detailed description of the program. The goal is to provide sustainable living wage careers for residents of Maui county and the State. This program will train residents for current and anticipated employment on Maui and the Big Island in high technology companies and for the many astronomical observatories on both islands. Producing engineering technologists will contribute to the diversification of Maui's industries.

Chancellor Sakamoto stated that the program has received the support of UH Mānoa's College of Engineering. The Institute for Astronomy will contribute its faculty for curriculum development and instruction. The program also has the support of the research and high tech industries located in Maui, as well as the Maui Economic Development Board. Regarding accreditation, Chancellor Sakamoto said that their community college accreditors indicated that the College would have to move to the

senior commission. He stressed that the College would continue to maintain its open admissions policy for the lower division, but institute selective admissions for the upper division.

Regent Hirota expressed his concern that this program will not enable students to become licensed engineers or surveyors as quickly as a standard engineering bachelor's degree.

Regent Martinson discussed whether this program addresses the most critical workforce needs of the State.

Chancellor Sakamoto reported that the faculty supports changing the name of Maui Community College to University of Hawai'i Maui College.

Vice President John Morton said that the University needs to determine how to address these workforce needs. Even though these jobs are few, they are very important jobs and are critical to Hawai'i's economy.

He also stated that students in this program are not qualified to transfer to the College of Engineering because they do not have the prerequisites. This is an entirely different curriculum from the standard Bachelors in Engineering and is based on 2 years of very practical training and 2 years of advanced training. College of Engineering Dean Peter Crouch supports this program because this program is not offered anywhere else in the UH system and it provides an important mix of jobs that is good for Hawai'i's economy.

Vice President Linda Johnsrud, who is also a WASC commissioner, said that Maui Community College will face novel issues from the accrediting team, for example, in areas like faculty classification.

Vice President Johnsrud also said that although she concurs with Chancellor Sakamoto over the urgency for this applied engineering technology program, she felt that the University needs more time to assess how to meet the state's engineering and technology needs as part of a systemwide strategy.

A brief recess was taken between 10:45 and 11:00 a.m.

## **VI. ACCEPTANCE AND APPROVAL OF GIFTS, GRANTS AND CONTRACTS**

Vice President for Research Jim Gaines requested acceptance and approval of gifts, grants and contracts received for the months of December 2008, January 2009, and February 2009. In addition, there were two indemnity provisions with the Smithsonian Astrophysical Observatory to conduct studies done by a faculty of the Institute for Astronomy. Vice President Gaines reported that by the end of the day, the University will have equaled the amount of research awarded for all of last year.

Upon motion by Regent de la Peña and second by Regent Martinson, the gifts, grants and contracts and the indemnity provisions for the Smithsonian Institute were unanimously approved, with a recusal by Chair Landon, who explained that one of his Bank of Hawai'i board of directors may have an indirect relationship with the Smithsonian.

## **VII. APPROVAL OF PERSONNEL ACTIONS**

President McClain recommended Board approval of (1) the reassignment of Angela Meixell as Interim State Director for Career and Technical Education, effective July 1, 2009 to June 30, 2010; (2) multi-year reappointment of Mary Boland as Dean, School of Nursing and Dental Hygiene, UH Mānoa, effective April 17, 2009 to April 16, 2014; (3) multi-year reappointment of Aviam Soifer, Dean of the William S. Richardson School of Law, UH Mānoa, effective April 17, 2009 to April 16, 2014.

Upon motion by Regent Dahilig and second by Regent Teichman, the personnel actions were unanimously approved.

### **Affirmation of University of Hawai'i Commitment to the Financing and Implementation of the Mauna Kea Comprehensive Management Plan (CMP)**

UH Hilo Chancellor Rose Tseng reported that the Comprehensive Management Plan (CMP) was approved by the Board of Land and Natural Resources last week in Hilo. Chancellor Tseng said that UH Hilo is willing and prepared to take the lead in implementing the CMP. She said that the stewardship of Mauna Kea must be on the Big Island. President McClain affirmed in a letter to the Chancellor dated March 20, 2009, that the Office of the Mauna Kea Management (OMKM) is the lead entity and UH Hilo the lead campus in implementing the CMP.

Mr. Arthur Hoke of Kahu Ku Mauna, an advisory council to OMKM on Hawaiian cultural matters affecting the Mauna Kea Science Reserve, addressed the Board with his concerns about Mauna Kea. He said that a few years ago, several individuals, at the urging of Senator Dan Inouye, approached the Board with issues about Mauna Kea. He said that the Board agreed with the issues, but never kept its word. He said that the Big Island community heard President McClain say that management of Mauna Kea would be centered on the Big Island. He stated that there are very few people on the Big Island who trust the University System, based on their past experiences. Kahu Ku Mauna has built a level of trust with UH Hilo and OMKM. Kahu Ku Mauna fairly represents the Hawaiian community, as does the Mauna Kea Management Board. Kahu Ku Mauna intends to do its best to do what the CMP has tasked it to do. He said that Kahu Ku Mauna may request assistance to properly implement the management of Mauna Kea.

Regent Carlson expressed his appreciation for Mr. Hoke's candor, and pledged his support of the University President in meeting the University's obligation to Mauna Kea.

President McClain shared with the Board the March 20, 2009 letter to Chancellor Tseng reaffirming the University's commitment to the 2000 Mauna Kea Science Reserve Master Plan adopted by the Board of Regents. The letter stated that in that Plan, the Board of Regents confirmed the Office of Mauna Kea Management, housed within UH Hilo, is:

- (1) the single entity to manage a comprehensive integrated plan for the Mauna Kea Science Reserve;
- (2) the point of contact for the summit region;
- (3) responsible for the management of the Science Reserve, Summit Road and Hale Pohaku;
- (4) responsible for establishing and enforcing management policies within the parameters of General Lease S-4191;
- (5) the focus of contact for the general public; and
- (6) a referral and facilitative agency for issues that are outside of its authority but related to the mountain.

At last week's Board of Land and Natural Resources meeting in Hilo, the President acknowledged the need for the University to rectify its past shortcomings with respect to stewardship.

Mr. Ed Stevens of Kahu Ku Mauna said that the mission of Kahu Ku Mauna is to be good stewards of Mauna Kea, and Kahu Ku Mauna is in full support of the CMP. He said that the CMP is doable, under the management of OMKM, Mauna Kea Management Board, UH Hilo, and Kahu Ku Mauna. They are currently urging the Legislature to establish rule-making authority to implement the CMP.

Mr. Ron Terry, member of the Mauna Kea Management Board (MKMB), stated that the MKMB has a volunteer group of scientists that has developed a natural resources management sub-plan for Mauna Kea. He asked the Board for its continued support of Mauna Kea, and invited the Board to visit the summit to experience its beauty and majesty first-hand.

Stephanie Nagata, Interim Director of OMKM, presented an overview of OMKM's activities over the past 8½ years to protect Mauna Kea's resources. One of the most significant initiatives was the development of a ranger program in 2001. The current 5 rangers are the eyes and ears of the mountain, and provide service from 7 am to 10 pm, 365 days a year. They interface with visitors, inform them of the significance of Mauna Kea, provide health and safety information, are trained to provide first-responder first aid, monitor film crews and commercial tours, and conduct twice-yearly inspections of



all observatory facilities on the summit for compliance with conservation district-use permits.

OMKM has established a resource library and a mapping project for all current and future research projects.

Ms. Nagata said that OMKM believes that its initiatives laid the foundation of the CMP, and along with MKMB, UH Hilo, and Kahu Ku Mauna, the OMKM stands ready to implement the CMP.

The Office of Mauna Kea Management requested the Board to delegate the full implementation of the CMP to UH Hilo, MKMB, OMKM, and Kahu Ku Mauna, and to provide adequate funding and authority to OMKM.

Ms. Dawn Chang described her activities during the development of the CMP, to engage the Big Island community and focus on the cultural framework of Mauna Kea. She said that within the community, there was mistrust, suspicion, apprehension, and promises that had not been kept by the University. She held public community sessions in Kona, Hilo, and Waimea, seeking community input.

Ms. Chang said the CMP does not take final approval away from the Department of Land and Natural Resources. Because all lands have conservation status, the Department will have final approval of all land usage on Mauna Kea.

Ms. Chang acknowledged the leadership of President McClain in bringing about a successful plan that is embraced by the community.

### **EXECUTIVE SESSION**

By unanimous approval, the meeting was recessed for lunch at 12 noon. Upon motion by Regent de la Peña and second by Regent Martinson, the Board unanimously approved convening in executive session following lunch, pursuant to HRS §92-5(a)(2)(3)(4), to discuss personnel actions, legal and real estate matters, and collective bargaining.

The meeting reconvened in public session at 3:58 p.m.

Vice Chair Karr presided over this portion of the meeting, upon request by Chair Landon.

### **Affirmation of University of Hawai'i Commitment to the Financing and Implementation of the Mauna Kea Comprehensive Management Plan (CMP)** **(continued)**

Vice Chair Karr, chairing the meeting, requested that Secretary Pang read a proposed 3-part resolution affirming the University's commitment to the financing and

implementation of the Comprehensive Management Plan for Mauna Kea. Following the reading, Regent Tajiri moved for approval of the resolution; Regent Carlson seconded the motion. A discussion of the proposed resolution ensued. Chair Landon suggested clarifying that UH Hilo's implementation of the delegated authority would be consistent with normal University governance processes. Regent Tajiri requested an additional part to the resolution reserving the right of the Board of Regents to have two regents serve ex officio on the Mauna Kea Management Board. As discussed and revised, the proposed resolution reads as follows:

*Be It Resolved That*

1. *The Board of Regents hereby acknowledges receipt of a letter dated April 15, 2009, from Sam Lemmo, Administrator, Office of Conservation and Coastal Lands, Department of Land and Natural Resources, State of Hawai'i, addressed to David McClain, President, University of Hawai'i, stating that on April 9, 2009, the Board of Land and Natural Resources approved the University of Hawai'i's Mauna Kea Comprehensive Management Plan subject to certain specified conditions;*
2. *The Board of Regents accepts responsibility for implementing the Mauna Kea Comprehensive Management Plan subject to the oversight of the Board of Land and Natural Resources;*
3. *The Board of Regents authorizes and directs through the normal University governance channels the University of Hawai'i at Hilo, the Office of Mauna Kea Management, and the Mauna Kea Management Board to undertake implementation of the Comprehensive Management Plan including all conditions imposed by the Board of Land and Natural Resources and including any necessary ancillary activities and uses thereto;*
4. *The Board of Regents reserves the right to appoint two regents to serve ex officio on the Mauna Kea Management Board.*

Adopted this 16<sup>th</sup> day of April, 2009.

Regent Tajiri moved to adopt the Resolution, as amended. Regent Landon seconded the motion. The Resolution was unanimously approved.

**Update by the Public/Private Task Group on the Cancer Research Center of Hawai'i Research Facility**

President McClain reported that negotiations are continuing, and the Administration would like the Board's authority to continue negotiations until May 29, 2009.

Upon motion by Regent Rasmussen and second by Regent Hirota, the Board unanimously authorized the Administration to continue negotiations until May 29, 2009.

**Report on the Status of the Presidential Selection**

A written report was shared with the Regents in executive session. In summary, the Advisory Committee anticipates forwarding their recommendations of 2 to 4 unranked candidates to the Board about the week of May 18, 2009.

**VIII. ANNOUNCEMENTS**

Vice Chair Karr announced that the next meeting of the Board will be on May 29, 2009, at the University of Hawai'i at Hilo.

Chair Landon appointed Regents Hirota and Martinson to the Mauna Kea Management Board as ex officio members, pursuant to the resolution adopted earlier.

**X. ADJOURNMENT**

The meeting was adjourned at 4:15 p.m.

Respectfully Submitted,

A handwritten signature in black ink, reading "Presley W. Pang". The signature is written in a cursive, flowing style.

Presley W. Pang, Esq.  
Interim Executive Administrator  
and Secretary of the Board

## EXHIBIT 8

**MINUTES**  
**BOARD OF REGENTS' MEETING**

**June 28, 2010**

**I. CALL TO ORDER**

Chair Howard Karr called the meeting to order at 9:00 a.m. on Monday, June 28, 2010, at the University of Hawai'i at Mānoa, Campus Center Ballroom, 2465 Campus Road, Honolulu, HI 96822.

Quorum (13): Chair Howard H. Karr; Vice Chair Dennis I. Hirota; Artemio C. Baxa; Michael A. Dahilig; Ramon S. de la Peña; Clifford C. Dias; Chuck Y. Gee; Mark H. Fukunaga; James J.C. Haynes II; John C. Holzman; James H.Q. Lee; Eric K. Martinson; and Teena M. Rasmussen.

Excused: (2): Carl A. Carlson; Grant T.S. Teichman.

Others in Attendance: President M.R.C. Greenwood, Ph.D.; Vice President for Academic Planning & Policy Linda Johnsrud, Ph.D.; Vice President for Budget & Finance/Chief Financial Officer Howard Todo; Vice President for Community Colleges John Morton, Ph.D.; Vice President for Legal Affairs and University General Counsel Darolyn Lendio, Esq.; Vice President for Research Jim Gaines, Ph.D.; Associate Vice President for Capital Improvements Brian Minaai; Associate Vice President Karen Lee, Ph.D.; Honolulu Community College Chancellor Michael Rota; Kapi'olani Community College Chancellor Leon Richards; Leeward Community College Chancellor Manuel Cabral; Hawai'i Community College Chancellor Rockne Freitas; Interim Executive Administrator and Secretary of the Board of Regents Keith Amemiya, and others as noted.

**II. PUBLIC COMMENT PERIOD**

Interim Executive Administrator and Secretary Amemiya reported that the Board office received 30 written testimonies in support of the Mauna Kea Thirty Meter Telescope project and 9 written testimonies in opposition. Seven people signed up to give oral testimony.

Dean Au from the Hawai'i Carpenters Union spoke in support of the telescope project, stating that the telescope will greatly improve science, technology, business, and education on Hawai'i Island and help create jobs for island residents. The union's motto, "Building Better Communities", exemplifies what the Thirty Meter Telescope project will give back to the State.

Mary Begier, President of the Hawai'i Island Chamber of Commerce, stated that its 700 members and 300 businesses on Hawai'i Island support the development of the Thirty Meter Telescope and pledge to continue to educate residents and visitors about its benefits, as well as to participate actively in the activities that surround Mauna Kea. Ms.

Begier also stated that the astronomy industry cares about the environment and will further enhance the island's cultural experience, as many of the scientists will come from different countries. Those scientists that will live on Hawai'i Island will help to ensure that communities will thrive, as astronomers' families will attend schools and community events, and otherwise keep the economy moving forward.

Roberta Chu, speaking as a mother in support of the project, stated that she believes in the far-reaching educational opportunities that it will bring to Hawai'i Island and the rest of the State. Ms. Chu elaborated that in order for our children to succeed, high-tech, high-skill, and high-paying jobs must be created. The Thirty Meter Telescope is an example of what the future can bring the children of Hawai'i.

Jacqui Hoover, Executive Director of the Hawai'i Island Economic Development Board, asks that the Board help Hawai'i's children think in future-tense and allow them to come home to seek employment. The Thirty Meter Telescope project will allow the State's young scientists an avenue to return home for work.

Mike Kido, representing The Pacific Resource Partnership, spoke on behalf of Executive Director, Kyle Chock. The Pacific Resource Partnership represents over 240 union signatory contractors and the Hawai'i Carpenters Union. Mr. Kido stated that the Thirty Meter Telescope project has demonstrated its respect and reverence for the sanctity of its location by going to great lengths to help ensure its presence atop Mauna Kea will have as little impact on the mountaintop as possible, such as making a conscious effort to reduce hazardous materials, taking measures to help prevent the spread of invasive species, and the placement of the telescope in a location least likely to disturb native wildlife habitats and sacred sites. He continued by saying the project will not only benefit the worldwide scientific community, but will also directly benefit those of Native Hawaiian ancestry and the residents of the Hawai'i Island, and will create work for many unemployed construction workers.

Robert K. Lindsey, Office of Hawaiian Affairs, Hawai'i Island Trustee, presented written testimony from Office of Hawaiian Affairs Chairperson, S. Haunani Apoliona, stating that the OHA Board of Trustees adopted a motion on Thursday, July 2, 2009, to support the Thirty Meter Telescope project atop Mauna Kea.

Dale Olive, Waiakea High School robotics teacher, said he noticed from the start that the Thirty Meter Telescope project was special when proponents approached the school and asked what they can do for Waiakea High School. Because of the support, Waiakea has been able to offer outreach in micro-robotics, allow many students to go to Japan for the first time, and to work with elementary school students on brush-bots that use a vibrating pager motor attached to a toothbrush that helps students to learn circuitry. The first brush-bot competition was held at Imiloa last October, with fourteen schools across the State competing in robot jousting, sumo robots, and racing toothbrush robots. Thanks to the support of the Mauna Kea Thirty Meter Telescope project, students across the state have received invaluable lessons in science and engineering.

### **III. REPORT OF THE PRESIDENT**

President Greenwood said she'd like to share some of the capabilities of the telescope project for Mauna Kea and what it would mean for the field of astronomy, our State, and the world.

President Greenwood stated that the Thirty Meter Telescope (TMT) project was the first project to undergo the Mauna Kea Science Reserve Master Plan's project review process in its entirety. She then acknowledged and thanked UH Hilo Chancellor Rose Tseng, the Office of Mauna Kea Management, led by Stephanie Nagata, the Mauna Kea Management Board, chaired by Barry Taniguchi, and the Native Hawaiian advisory group, Kahu Ku Mauna, for their hard work and constant diligence throughout this process. All steps in the project review process involved public input and review by the Mauna Kea Management Board. The University of Hawai'i is responsible for ensuring good stewardship of this special site for future generations, which has been the priority throughout the process and will continue.

The 30-meter diameter mirror of the Thirty Meter Telescope will have nine times the light collecting area of the world's current largest telescopes, the Keck telescopes, which sit atop Mauna Kea. Compared to the Hubble telescope, the TMT will have 160 times the light collecting area and will be able to see details 10 times sharper at certain wavelengths. The TMT mirror will be comprised of 492 hexagonal segments, with each approximately two meters across.

TMT will look back in time over 12 billion years to watch the formation of the first stars and galaxies. It will probe the turbulent regions around super-massive black holes, including the one at the center of our own Milky Way galaxy, and will reveal the details of planets around nearby stars, including the possibility of life.

The benefits that will come from TMT go far beyond scientific results. The current telescopes represent a capital investment of close to \$1 billion. TMT's capital investment will approximate \$1 billion as well. The observatories currently provide over 500 quality jobs in a clean, high-tech industry that will increase by at least 140 jobs. Only a small fraction of these jobs are for astronomers. Most jobs are for technical and administrative services.

Astronomy diversifies the state's economy and gives local young people with scientific and technical talents a wealth of opportunities to realize their potential without having to leave home. In addition, TMT will provide funding for local education initiatives and workforce development programs.

President Greenwood continued on to the Interim Procurement Procedures, the next item before the Board. The Interim Procurement Procedures are based on the passage of Act 82, which was enacted this past legislative session, and is effective July 1, 2010. The Act provides the University with flexibility in relation to the state procurement code. President Greenwood thanked Chair Karr, Vice Chair Hirota, and

Regents Lee and Martinson, who were charged with reviewing the proposed interim procedures.

**President's Status Report:**

**Honolulu Community College** - President Greenwood stated that on a recent trip to Nashville, Tennessee, she had the opportunity to meet with representatives of Belmont University. The Mike Curb College of Entertainment & Music Business at Belmont has been a key partner for Honolulu Community College's MELE Program. Students who earn associate degrees in the program can easily transfer to Belmont University, where they can continue their education and get a bachelor's degree in music business, audio engineering, entertainment industry studies, or songwriting.

Thanks to a generous gift from the Mike Curb Family Foundation, students at Honolulu Community College can now have access to professional recording studio equipment. The Curb MELE Studios at Honolulu Community College were recently completed with the installation of \$175,000 worth of control room equipment, including a state-of-the-art Neve Designs 5088 recording console. The newly equipped studio will allow the teaching of advanced audio engineering courses in conjunction with Belmont University, and will serve as a gathering place for music business professionals.

President Greenwood then introduced distinguished guests, Dr. Jean Lou Chameau, President of Caltech, Dr. Henry Yang, Chancellor of UC Santa Barbara, and Dr. Michael Bolte, Director of the University of California Observatories/Lick Observatory and TMT board member. President Greenwood welcomed them each with a lei as they prepared to address the Board.

Dr. Chameau became involved in the TMT project and quickly started to visit Hawai'i many times to introduce himself and talk to the many stakeholders in the State, to learn from the community, and to try to understand the issues in the community. He said the purpose was to propose a plan to develop a science facility on Mauna Kea that contributes to science and education, and to the local community and the State of Hawai'i in general. The long term impact of the plan will allow astronomers and scientists on Hawai'i Island to be key partners in a plan to get young people involved in math, science, and engineering. This project benefits the community and is respectful of the community. Construction of the Thirty Meter Telescope is expected to take 6 to 7 years and create jobs for many island residents.

Dr. Chameau continued by saying this project is probably the most important science project in the world for the next twenty years, as it will allow great discoveries in astronomy going back in time to almost the Big Bang. The telescope is expected to have a long term impact on physics, engineering, and technology. Hawai'i, along with help from international partnerships with Canada, Japan, China, California, and India, will be the world's center of science and technology.



Dr. Yang continued by saying that when he and his wife first came to Hawai'i Island, he made it a point, with the help of Chancellor Rose Tseng, to get to know the Hawaiian culture and to really listen to the community. He said Hawaiians were pioneers in astronomy, using the stars and double-hulled canoes to find their way throughout the islands, which will only be enhanced by the development of the Thirty Meter Telescope. The international and local partnerships will benefit jobs, culture, and science. Dr. Yang further stated that we will be able to peel back to the first development of stars in the galaxy and learn things not even imagined yet.

Dr. Yang thanked Senator Daniel Inouye and Jennifer Sabas for their support and explaining to the team the lay of the land. He thanked Chancellor Rose Tseng and the faculties of astronomy and language at UH Hilo. Dr. Yang further thanked community leaders Roberta Chu, Jacqui Hoover, Rachel Hong, Board Chair Barry Taniguchi, Mauna Kea Management Office Director Stephanie Nagata, and Mayor Billy Kenoi. Dr. Yang also thanked Keck Observatory Director, Dr. Taft Armandroff, and his colleagues, as well as Governor Lingle, former Board of Regents Chair Allan Landon, current Board of Regents Chair Howard Karr, former University of Hawai'i President David McClain, UH Mānoa Chancellor Virginia Hinshaw, UH Mānoa's Institute for Astronomy, current UH President M.R.C. Greenwood for her energetic and able leadership, and finally, Ed Stone of the TMT Board, Dr. Michael Bolte, Gary Sanders, and Sandra Dawson, and the rest of the TMT team in Hawai'i.

UH Hilo Chancellor Rose Tseng addressed the Board and asked that they approve the Thirty Meter Telescope Project for the Mauna Kea Science Reserve. The TMT is the first new project to go through the Master Plan 2000 process for approval. The process includes a very rigorous design and review process, and is the first project guided by the Comprehensive Management Plan and that followed the recently approved sub-plans. The TMT team came to the islands and listened to the University and the community to achieve balance between the project and the environment. The Mauna Kea Management Board voted to accept the TMT proposal and Governor Lingle accepted the final environmental impact statement. Chancellor Tseng then asked Stephanie Nagata to do the presentation on the Thirty Meter Telescope project.

#### **IV. ITEMS FOR ACTION - Part A**

##### **Presentation for Mauna Kea Thirty Meter Telescope Project**

Office of Mauna Kea Management Director, Stephanie Nagata, stated that the scientific power of a telescope is determined by its aperture, or the size of its mirror. Larger aperture mirrors collect more light from astronomical sources and, if blurring of the atmosphere is corrected, can make sharper images. Telescopes with larger primary mirrors can be used to study objects of a given brightness more quickly or to study more distant and fainter objects than can now be observed.

The Thirty Meter Telescope, on a clear night, can study targets that are farther away and fainter, and can provide a much sharper image. TMT-based observations can be

gathered 81 times faster than the Keck Observatory telescopes and 198 times faster than the Gemini North telescope. For the specific case of imaging planets or orbiting stars other than our own sun, TMT can deliver images in one night that would require nearly 2 years of nights at the Keck Observatory or 75 years at Gemini North. The TMT mirror is similar to the Keck mirror in that it is composed of individual segments operating as one. However, Keck has only 36 segments, while TMT will have 492 segments.

The 2000 Master Plan and the Board of Land and Natural Resources approved Decommissioning Plan state that astronomy development is limited to the 525 acre Astronomy Precinct, with the remaining area used as a cultural and natural preservation area. The Astronomy Precinct is defined as where development will be consolidated to maintain a close grouping of astronomy facilities, roads, and support infrastructure. It was designed to minimize impact to the natural and cultural resources of the summit region. The boundaries of the precinct avoid archaeological sites, limit visual impacts, and maintain an open view from Kukahau'ula looking toward the west.

The Master Plan delineated an area on the northern plateau as Area E, in which a next generation large telescope, such as TMT, could be built. Area E was designated as a location for the telescope because it would have minimal impact on existing facilities, minimal impact on the wēkiu bug habitat, it avoids archaeological sites, minimizes views from Waimea, Honokaa and Hilo, and is in close proximity to roads and existing infrastructure.

The Master Plan calls for all astronomy projects to undergo a review process, with the first step to classify the project as major or minor. Major projects, such as TMT, undergo a four-step design review process that includes:

1. Pre-design – all participants are given an orientation on the Master Plan's goals and objectives, an overview of the design review process, and an introduction to the Master Plan design guidelines;
2. Schematic Phase – the developer provides conceptual drawings, including vehicular circulation and parking, overall building mass, heights, etc., and building characteristics, including architectural renderings;
3. Design Development – the developer provides detailed line drawings to scale of the concepts discussed in the schematic phase;
4. Construction documents are prepared and submitted as part of the Department of Land and Natural Resources permit application process.

In the case of TMT, the Mauna Kea Management Board recommended, and President David McClain concurred, that TMT be classified a major project. To date, TMT has completed the first three of the four phases.

The purposes of the design guidelines are to direct development in a manner that integrates the facility into the summit environment, being sure to avoid known cultural sites, minimize impact on the wēkiu bug habitat, minimize visibility, and to be located close to existing roads and away from existing facilities. Approximately 4.85 acres of land will be

disturbed, including grading and fill. The north and northwest area of the site will be graded similar to the natural contours, giving a more natural look to the site. There will be fill on the south side of the site to help minimize visibility from the summit region.

Visitor parking is designated in front of the building, though visitors will be able to park anywhere on the level site. For safety reasons, a continuous vehicular guardrail will be placed along the entire northern and western boundary of the site to prevent vehicles from driving over the edge.

The dome of the telescope is a calotte style, allowing for a compact design that can minimally enclose the 30-meter telescope. To keep the diameter of the dome to a minimum, TMT's design has a clearance allowance of only twenty inches between the telescope and the dome. The telescope will have a focal ratio of 1, resulting in a dome size of 66 meters. Advances in technology and telescope design allow the telescope, with its mirror being three times the size of the Keck mirror, to have a dome smaller than the Keck dome. The total height of the dome is 180 feet, with an exterior radius of 108 feet. The summit support facility has been redesigned from a multi-story to a single-story structure, thus reducing the total gross square footage from about 41,000 square feet to about 18,376 square feet.

Another significant modification has been the reduction in the size of the diesel fuel storage tank, from 5,000 to 2,000 gallons, which results from the downsizing of the emergency generator due to the reduction or elimination of some mechanical and electrical equipment.

The Environmental Impact Statement (EIS) contains discussions on visual impact, which are based on a study looking at the site from various locations on the island, including the summit. The telescope's location on the northern plateau makes the facility less visible from the summit and from certain locations on the island. The EIS incorporated the Comprehensive Management Plan, and the four sub-plans, including a discussion on decommissioning of the project. The process for negotiating a sublease between the University of Hawai'i and TMT is also included, and will require approval of the Board of Regents, the TMT Board, and the State Board of Land and Natural Resources.

The EIS evaluates potential impacts of building and operating the TMT within the framework of all applicable rules, regulations, and requirements, including the Comprehensive Management Plan and the four sub-plans. Some of the notable impacts identified are:

- Impact on spiritual and sacred quality of Mauna Kea from additional degrading of the Kukahau'ula historic property;
- The generation of domestic waste from staff operating the facility;
- Construction related activities, including dust, noise, and fire;
- Socio-economic impacts, which are expected to be beneficial through the creation of jobs, increased purchases of goods and services, and contributions to local and state tax revenues.

The Thirty Meter Telescope project plans to offer training programs in cultural and natural resources. The project also plans to minimize daytime activities to up to four days a year in observance of cultural activities. Further, the project plans to monitor the wēkiu bugs prior to, during, and following construction. Additionally, the project plans to coordinate with the Office of Mauna Kea Management the development and implementation of an invasive species prevention and control program, and coordinate the development of a wēkiu bug habitat restoration study.

Mitigation measures include implementing a ride sharing program to reduce vehicular traffic, employ dust, noise and fire control measures, and to develop and implement waste minimization and management plans.

Community benefits include an annual contribution of \$1 million to The Hawai'i Island New Knowledge Fund, which will be locally managed with locally chosen directors to oversee educational programs. Other benefits include partnering with UH Hilo and Hawai'i Community College to develop a workforce pipeline to educate and train today's students for future TMT careers, and to fill TMT operations positions from the local workforce.

There is also a commitment by TMT to paying sublease rent that will include monetary payments for mountain management. Observing time for the University of Hawai'i will be included in the rent plan.

Kahu Ku Mauna translates to "Guardians of the Mountain", and is the Hawaiian advisory council to the Office of Mauna Kea Management. This council originally stood against the construction project for the Thirty Meter Telescope, and had strong reservations about building the project on the summit plateau. However, leaders of the TMT project demonstrated intentions of responsible tenancy that strive to meet the standards established by the Office of Mauna Kea Management. Kahu Ku Mauna now supports the project, as there will be responsible stewardship of Mauna Kea and policies that lead to a system of best management practices that encourage collaboration and the sharing of resources among the tenants.

The Office of Mauna Kea Management proposed to the Mauna Kea Management Board that they recommend to the Chancellor of UH Hilo that she submit a recommendation to the President and the Board of Regents to approve the TMT project. This recommendation is based on, among other things, the following:

- The design of the TMT facility, which follows the design guidelines described in the 2000 Master Plan;
- TMT incorporated suggestions and recommendations made by the design review committee and the Mauna Kea Management Board, which included the incorporation of the support structure and fixed enclosure into the surroundings to create a more natural look to the site;
- TMT is trying to minimize site disturbance by orienting the building's long axis with the existing contours of the site;

- The project will be utilizing existing roads and infrastructure during construction and during operations;
- The facility's location below the summit, as well as the dome's design and color, help to reduce visibility;
- Impact to the wēkiu bug habitat is limited;
- The Environmental Impact Statement incorporates mitigation measures;
- TMT is committed to carrying out decommissioning;
- There is anticipated substantial rent payment, which is the first for any observatory.

The Mauna Kea Management Board recommends that TMT and the University of Hawai'i enter into a binding agreement, whereby TMT agrees to comply with the mitigation measures described in the Environmental Impact Statement, along with a contractor checklist that will assist in monitoring mitigation. The Office of Mauna Kea Management shall provide periodic reports to the Mauna Kea Management Board on the satisfaction of mitigation conditions, along with any modifications or violations.

Director Nagata concluded by saying the trust that has been established between the Mauna Kea Management Board, Kahu Ku Mauna, and the Office of Mauna Kea Management is what brings her here today to ask the Board of Regents to approve the Thirty Meter Telescope project with the conditions guided by the Mauna Kea Management Board. Director Nagata finished by recognizing Sandra Dawson, TMT Project Coordinator, who has given the Office of Mauna Kea Management the utmost respect during this process.

Mauna Kea Management Board Chair, Barry Taniguchi, added that since the 10 years of the creation of the Mauna Kea Management Board, the Office of Mauna Kea Management and Kahu Ku Mauna, the Plan works and the process resulting in this presentation is working. Three years ago, the project had a strong chance of going to Chile. With everyone's hard work and dedication, the project has remained in Hawai'i.

Regent Karr said there are a lot of legal issues that need to be discussed regarding the Thirty Meter Telescope project, and therefore asked that the Board convene in Executive Session to discuss these matters.

#### **VIII. EXECUTIVE SESSION**

Upon motion by Regent Dahilig and second by Regent Gee, the Board unanimously approved convening in executive session, pursuant to HRS §92-5(a)(2)(3)(4). The Board convened in executive session at 10:24 a.m., and reconvened in public session at 11:57 a.m. following a motion to come out of executive session by Regent Gee and seconded by Regent Fukunaga, which was unanimously approved.

## **VI. ITEMS FOR BOARD ACTION – Part B**

### **Approval of the Thirty Meter Telescope Project**

Regent Carlson moved to approved the Thirty Meter Telescope project as submitted in the action memo, subject to amendment of Conditions 1. and 4., as follows:

Condition 1: The TMT and the Board of Regents negotiate in good faith to secure substantial funding in the form of sublease rent that shall be applied specifically for management of the mountain. The Board of Regents shall consult with the Mauna Kea Management Board during the negotiations and will give them the opportunity to vote on whether to recommend approval of the terms; and

Condition 4: TMT and the University of Hawai'i should enter into a binding Operating Site Development Agreement (OSDA) whereby TMT agrees to comply with all of the mitigation measures described in the Environmental Impact Statement. Failure to comply shall result in agreed upon remedies. The OSDA, along with a contractor's checklist, will assist in monitoring mitigation.

Regent Dias seconded Regent Carlson's motion.

Regent Gee said the project does carry risks and has a downside, but the upside far outweighs the downside. The University of Hawai'i is a space grant university. As such, there is no choice but to approve the project for what it will mean for science and education, and the discoveries made may provide a means of unlocking some of the mysteries of the universe.

Regent Karr mentioned that Hawai'i Island Mayor Billy Kenoi recently stated that this is a sacred science for a sacred mountain, and that Mauna Kea is the premier site for Hawai'i. With TMT, science and technology come into our public schools and children will embrace it along with history, culture, and heritage. The best and brightest are coming to Hawai'i to encourage the best and brightest here at home.

Upon unanimous approval, the Thirty Meter Telescope Project was approved.

### **Approval of the Interim Procurement Procedures**

Vice President Howard Todo informed the Regents that in the 2010 legislative session, the Hawai'i Legislature passed HB 247, which provides the University with a limited exemption from certain requirements of the state procurement code (HRS 103D). This bill was signed into law by Governor Lingle as Act 82 and becomes effective as of July 1, 2010.

The University supports this legislation because it restores, to a limited extent, the exemption from procurement law that the University was afforded from 1998-2004. During that period, the University used its procurement exemption responsibly, innovatively, and effectively. The University pioneered innovations in procurement, such as the first

e-Procurement system and the first P-Card system in the public sector in Hawai'i, and increased the small purchase threshold limits. These innovations and changes were later implemented by the State.

Act 82 allows the University to continue its history of procurement innovation for at least a two year period. The University will be able to pilot and test improvements and innovations to the University's procurement system which, if successful, could be adopted by the Legislature for statewide application.

Regaining limited procurement flexibility enables the University to more quickly start and complete much needed repair and construction projects. With a \$368 million maintenance backlog systemwide and more than \$250 million in important projects planned and ready to go, the procurement exemption will help enable the University to more expeditiously start construction of these much needed projects and help put men and women in the construction trades back to work, provide a safe and conducive learning environment for the University's students and faculty, take advantage of the current low-cost construction environment that will save the University and State significant funds, and increase indirect overhead cost recoveries from the federal government to the extent that the capital improvements funds are used for repair, maintenance, and construction of research related facilities.

VP Todo continued by saying the President is in the process of appointing a Blue Ribbon Panel to review and make recommendations to the University regarding its procurement procedures.

The Board of Regents Interim Procurement Procedures Task Group has reviewed the interim procedures, and in their meeting of June 16, 2010, endorsed presenting the proposed procedures to the BOR with a recommendation for approval.

VP Todo concluded by saying the Office of General Counsel also reviewed the procedures and recommended several additional technical changes in order to comply with Act 82.

### **EXECUTIVE SESSION**

Upon motion by Regent Gee and second by Regent Rasmussen, the Board unanimously approved convening in executive session, pursuant to HRS §92-5(a)(2)(3)(4), working through lunch. The Board convened in executive session at 12:15 p.m., and reconvened in public session at 1:40 p.m. following a motion to come out of executive session by Regent de la Peña and seconded by Regent Haynes, which was unanimously approved.

### **Approval of Interim Procurement Procedures**

Upon motion by Regent Gee and second by Regent Lee, the proposed Interim Procurement Procedures were unanimously approved effective July 1, 2010, and includes

the changes proposed by the Office of General Counsel. Additionally, the Board agrees to President Greenwood appointing a Blue Ribbon Panel to review and make recommendations to the University regarding the procurement procedures.

**Approval of Emerita Title for Chancellor Rose Tseng**

Upon motion by Regent Dahilig and second by Regent Hirota, this motion was unanimously approved.

**VII. APPROVAL OF PERSONNEL ACTIONS [Attachment B1 & B2]**

Upon motion by Regent Holzman and second by Regent Rasmussen, the Board unanimously approved the items on Attachment B1.

Attachment B2 is for information only.

**VIII. ANNOUNCEMENT**

Chair Karr announced the next meeting is scheduled for July 15, 2010, at UH Mānoa's Stan Sheriff Center.

**IX. ADJOURNMENT**

There being no further business, on the motion of Regent Haynes and second by Regent Rasmussen, and with unanimous approval, the meeting was adjourned at 1:45 p.m.

Respectfully Submitted,



Keith Y. Amemiya  
Interim Executive Administrator and  
Secretary of the Board of Regents



## EXHIBIT 9

# UNIVERSITY OF HAWAII AT HILO

UH Hilo Administration  
Office of the Chancellor

September 1, 2010

## MEMORANDUM

TO: M.R.C. Greenwood  
President, University of Hawai'i

FROM: *Donald O. Straney*  
Donald O. Straney  
Chancellor, University of Hawai'i at Hilo

SUBJECT: Approval of the Conservation District Use Application for the Thirty Meter Telescope Project

I am respectfully requesting your approval of a recommendation by the Mauna Kea Management Board (MKMB). At today's meeting the MKMB reviewed the Conservation District Use Application (CDUA) for the Thirty Meter Telescope (TMT) project and heard testimony from the public. Following the presentation of public testimony the MKMB entered into executive session to consult with its attorneys about legal issues relating to the CDUA. The MKMB reconvened in public session then voted on the following action item:

MKMB voted unanimously to recommend that the UH Hilo Chancellor approve the CDUA for the TMT project and that UH Hilo be designated the agency to submit the CDUA to the Department of Land and Natural Resources (DLNR).

I have reviewed the CDUA and concur with the MKMB.

APPROVED/DISAPPROVED

*M.R.C. Greenwood*  
M.R.C. Greenwood  
President  
University of Hawaii

*9/2/10*  
Date

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

Contested Case Hearing Re Conservation  
District Use Application (CDUA) HA-3568 for  
the Thirty Meter Telescope at the Mauna Kea  
Science Reserve, Ka'ohē Mauka, Hāmākua,  
Hawai'i, TMK (3) 4-4-015:009

Case No. BLNR-CC-16-002

CERTIFICATE OF SERVICE

**CERTIFICATE OF SERVICE**

The undersigned certifies that the above-referenced document was served upon the  
following parties by email unless indicated otherwise:

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DATED: Honolulu, Hawai'i, August 1, 2016.

  
\_\_\_\_\_  
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UNIVERSITY OF HAWAI'I AT HILO